ROMANÆ HISTORIÆ ANTHOLOGIA RECOGNITA ET AUCTA.

Z.11.20

AN

English EXPOSITION

OF THE

ROMAN

ANTIQUITIES;

WHEREIN

Many ROMAN and ENGLISH

Offices are parallel'd, and divers obscure Phrases Explained.

For the use of *Abingdon* School.

Newly Revised and Enlarged by the Authour.

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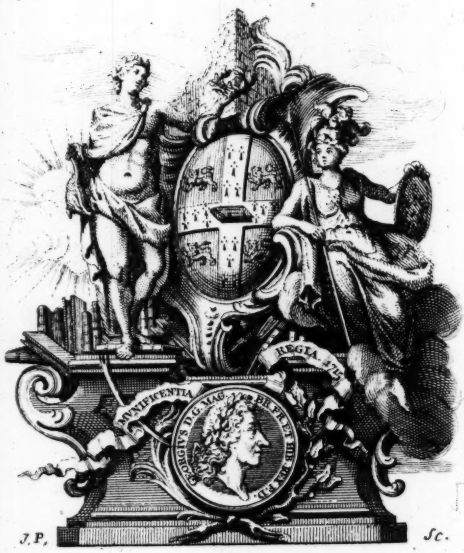
MUNIFICENTIA
REGIA
J. P.
Sc.

VIRO
COLENDISSIMO
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SS. THEOLOGIÆ DOCTORI
& Eccleſiæ *Wintonienſis* Decano
Ornatiſſimo.

Εὐδαιμονέστατα διάγειν.

Vir Ornatiſſime,

NOn liberi quam libri pluribus exponi periculis ſolent, cum primum prodeant in lucem: utriſque pariter opus eſt tutelari aliquo numine obſtetricante. Hoc olim ſenſit anthologia hæc noſtra primum edita: idem ſentit eadem in hodierna duarum ſectionum, & capitulorum aliquot ſuperfœtatione. Nacta igitur ſecundas ſuas cogitationes te ambit Patronum, qui facem

aliquam mihi in his antiquitatibus obambulanti præstuliſti, & quem multum fuiſſe in ſtudiis meis promovendis, palam, & ſub Dio prædico, videbis me aliquoties alium à doctiſſimis viris, & ab illorum ſententiis alienum: Veritate enim præponderante, nullus apud me Plato, nullus erit Ariſtoteles, (nolo ego iſtiuſmodi inſaniam inſanire, utcunque ſplendidam & autoritativam:) Cæterùm tacitus hoc facio, & apud me, citra omnem velitationis pulverem, rarò admodum quovis protracto in arenam, ne videar ex illorum numero, qui ex nuda pugna cum adverſario aliquo eximio commiſſa, gloriolæ neſcio quos fumos ſibi pollicentur. Hæc ſcribendi ratio ſi tibi placeat, alios non moror, quibus ſi ſimplex veritas non arriſſeret, cum magnis nominibus deviare per me licebit. Vale, & meas Muſas, ut ſoleas, ama: illæ, quod jam faciunt, te colent ſemper, & omni obſequio proſequentur. Datum Abindoniæ 14. Calend. Decemb. Anno χριστιανισμου 1622.

Dignitati tuæ

multiplici nexu mancipatus,

Tho. Godwyn.

BENEVOLO LECTORI.

Ἐυπραττεῖν Ἐυκρίνειν.

MIRARIS forſan & redarguis, quòd nondum deſtitum ab his elementaribus; quaſi vita mihi vitalis foret, in his minutiis integram meam ætatem eludere, & votum unicum in his prævi-is ſtudiis ſenium contrahere. Qui ſic ſentis, nec me ſatis noris; nec ludi literarii (pone lenocinium nominis, moletrinæ dices) iniquas leges, aut miſerias quotidianas, & omnigenas. Sentio ego me in piſtrinum damnatum, & cogita tu hanc Anthologiam è piſtrino prodeuntem. Si minus placeat, illud dabis puerorum circumſtrepentium ſuſurris, inter quos nata eſt: Si placeat, illud debes puerorum crebris interrogatiunculis, quarum enodationes, me vel invitum indies reducunt ad hæc ſtudia, quæ alias jamdudum juſſiſſem ſuas ſibi res habere; Sic me amet Theologia, ſacratior mihi pagina in votis, cùm hæc in manibus, ludo cogente. Interim te monitum velim, quæ acceſſere, non vulgaria, aut obvia, nec quæ vulgus hominum, aut docuit, aut didicit.

Vale.

A ſhort Table, ſhewing the Argument of every Book and Section.

Lib.

1. *Of the Roman City.*
   1. *Of the chief parts thereof.*
   2. *Of the general diviſions of the Roman People.*

Sect.

2. *Of the Roman Religion. Sect.*
   1. *Of certain general diviſions of their Gods.*
   2. *Of the* Roman *Prieſts, with ſome particular Gods, together with their rites in marriages and burials.*
   3. *Of the Roman Games, which endeth with their manner of taking meat.*

3. *Of the ſtate Political. Sect.*
   1. *Of their Aſſemblies, called Comitia, which Section is begun with the Roman year, concluded with two Chapters of Roman Garments.*
   2. *Of their Civil Magiſtrates.*
   3. *Of their Civil Puniſhments.*
   4. *Of all thoſe Laws which I have obſerved to be touched in* Tully's *Orations.*

4. *Of the art military, as it was practiſed by the Romans. Cap.*
   1. *Of their manner obſerved in eſtabliſhing their Leagues.*
   2. *Of the* Roman *Legion, and the parts thereof.*
   3. *Of the manner of Beſieging a City.*
   4. *Of the puniſhments towards their Enemies Captivated.*
   5. *Of puniſhments towards the Roman Souldiers offending.*
   6. *Of certain rewards, after the performance of any Noble* Exploits.

THE

ROMAN ANTIQUITIES

Expounded in *Engliſh.*

LIB. 1. Sect. 1.

Of the Chief Parts of the City.

CHAP. I.

De modo condendarum, delendarumq; urbium.

BEfore we handle the deſcription of the particular places in the *Roman* City, it will not be amiſs to premiſe ſomewhat concerning the ancient manner of building, and raiſing Cities. In the Building of Cities, the Founders thereof did uſually conſult with their Gods in their *Augural* obſervations; and *a* this courſe was obſerved by *Romulus* himſelf, in the firſt Foundation of *Rome*; After their *Augural* obſervations, they marked out the place where the wall of the City ſhould

a M. Tullius lib. 1. de divinat.

should be built, by plowing up the ground, and because they left that space of ground unplowed, lightly lifting the plough over it, where they appointed the Gate of the City, thence *a portando*, from carrying and lifting the plough, they called the Gate *Porta*. This custome is fully described by *b Cato*: *Captato augurio, qui urbem novam condebat, tauro & vaccâ arabat: ubi arâsset murum faciebat, ubi portam volebat esse, aratrum tollebat & portam vocabat.* *Vergil* also alludeth unto it,

b M. Cato in fragm.

Interea Æneas urbem designat aratro,

The manner hereof was, that he who held the plough, did cast up the skirt of his gown on the right shoulder, and gird himself about, either because this was the usual habit of such who performed holy Rites; in the number of which, this present action was reputed; or that he might the more readily address himself to the business; or lastly, that he might symbolically by that pacifical habit intimate, that the flourishing estate of a City, is not so much preserved by war, as by peace. Hence *Ovid*, *Lib.* 4. *Fastorum.*

Ipse tenens stivam, designat mœnia sulco,
Alba jugum niveo cum bove vacca tulit.

c Cœl. Rhod. ant. l. 26. c. 5.

The *c* like custome was used also in the raising or demolishing of Cities, when they had been vanquished by the enemies, which observation giveth light to that of *Horace*. *Lib.* 1. Od. 16.

—— Urbibus ultimæ
Stetêre causæ cùm perirent
Funditus, imprimeretque muris
Hostile aratrum exercitus insolens.

CHAP. II.

De Monte Palatino.

TOuching the Name of *Rome*, from what occasion the City should be so denominated, divers Authours conceit it diversly. *d* Some are of opinion, that this City was built long before *Æneas* came out of *Troy*, and was then called

d Vid. Ant. Constant. in Ovid. Fast. l. 1.

called by the Latines *Valentia*, which was a name of strength, whence *Evander* coming from *Italy*, called it *Roma* from ῥώμη *Robur*. Others say, it was so called from *Ascanius* his daughter, whose name was *Roma*. But it is agreed upon by most Writers, that the Founders were *Romulus* and *Remus*, and from *Romulus* it was called *Roma*, not *Romula*, because the diminutive, *Romula*, might ominate less prosperity thereunto. *e* Some say, that he built it in form of a quadrangle, upon one only hill, called *Mons Palatinus*. *f* Others say, that *Fabius* left *Rome* as it was first built, with the fields thereof, painted in the form of a bow, the river *Tiber* being the string thereof. Upon this *Palatine* hill, was always the seat of the *Roman* Empire, which from the hill took the denomination of a *Pallace*: and hence all *g* stately buildings which we call *Pallaces*, took their name, *Palatia*. This hill had his first appellation *h Balatinus à Balando*, from the bellowing of cattle pasturing therein former times, and afterwards the first letter being changed, it was called *Palatinus*: by the figure *antonomasia*. *Virgil* seemeth to be of opinion, that the hill was called *Palatinus*, by *Evander*, in remembrance of his grandfather, whose name was *Pallas*, according to that

e Rosin. ant. l. 1. c. 2.
f Sig. de jur. Rom. l. c. 2.
g Rosin. ant. l. 1. c. 4.
h Vid. Serv. in Æn. l. 8.

---Posuere in montibus urbem,
Pallantis proavi de nomine Pallanteum. Virg. Æneid. l. 8.

In processe of time six other hills by several Kings of *Rome* were added; whereby the City, and the *Pomærium*, that is, the territories of the City were enlarged: and *Rome* called *Urbs septicollis*, *id est*, the City upon seven hills.

Sed quæ de septem totum circumspicit orbem
Montibus, imperii Roma deumque locus. Ovid. trist. lib. 1. Eleg. 4.

Upon this *Palatine* hill also stood the *Asylum*, or Sanctuary of refuge, which *Romulus* opened *i* in imitation of *Cadmus*, who at the building of *Thebes* was said to have opened a Sanctuary of Refuge, whither whatsoever Malefactour could

i Alex. Gen. dier. l. 3. c. 20 ubi jura lectione digna de Asylis.

could escape, were he bond or free, he was not to be punished. It was much like unto a custome of the people in the City *Croton*, who flying unto the altars of their gods, obtained the forgiveness of faults not voluntarily committed. Whence these two phrases are expounded alike, *Ad te tanquam ad Asylum*, and *Ad te tanquam ad aram confugimus, id est*, we fly unto thee as our only refuge.

CAP. 3.
De monte Capitolino.

THis hill was famous for three names: it was called *Capitolium*, *mons Tarpeius*, and *mons Saturni*. It was named *Saturnes* hill *k* from the Heathenish god *Saturne*, who vouchsafed to undertake the protection of that place. It was named the *Tarpeian* hill *l* from *Tarpeia* one of the Vestall Nuns, daughter to the chief Keeper of the Capitol, (this hill being the castle of defence for the whole town) For this *Tarpeia* betrayed the Capitol into the enemies hands, bargaining to have the golden bracelets upon her enemies left hands, for this her treason. Now the enemies when they were admitted in, did not cast their bracelets alone, but their bucklers also upon her through the weight whereof she was pressed to death: upon which occasion the whole hill was afterwards called, the *Tarpeian* mount: but more principally a certain rock of that hill called *Tarpeia rupes*, from whence malefactors were sundry times tumbled headlong. The same was likewise called the *Capitol*, because when the foundation of a certain Temple, built in the honour of *Jupiter* was laid; a mans head, full fresh and lively, as if it had been lately buried, *m* yea hot blood issuing out of it, was found there. *n* *Arnobius* saith, that the name of this man being alive was *Tolus*, and hence from *Caput* and *Tolus*, the whole hill was called *Capitolium*.

1. *k* Rosin. ant. l. 1. c. 5.

2. *l* Plutar. in Romulo.

3. *m* Dion. Halicar. l. 4. *n* Lil. de magnitud. Rom. c. 5.

CAP.

CAP. 4.
De colle Quirinali.

THis hill being in former time called *Agonalis*, then began to be called *Quirinalis*, when certain *Sabines*, called in Latine *Curetes*, came and inhabited there, (truce being made between the *Romans* and the *Sabines*:) though ſome would therefore have it named *Quirinalis*, becauſe there was a Temple erected in the honour of *Romulus*, called alſo *Quirinus*. It was called in the time of the Emperours *mons Cabellus*, that is, the horſe hill, taking its denomination from two marble ſtatues of *Alexander* taming his horſe *Bucephalus*: which ſtatues *Conſtantine* the Emperour brought to *Rome*, and placed them in the midſt of certain Baths, which he made upon this hill. There do appear in this hill three riſings, or hillocks; the one being called *Salutaris*, the other *Martialis*, and the third *Latiaris*. All this may be collected out of *o Roſinus*.

o Ant. Rom. l. 1. c. 6.

CAP. 5.
De monte Cœlio.

THis hill hath his name from a certain *p* Captain of *Hetruria*, which aſſiſted *Romulus* againſt the *Sabines*. On this hill, King *Tullus Hoſtilius* erected ſtately edifices, which for a time ſerved as his Palace: but afterward they became the chief Councel-houſe, whether the *Senatours* aſſembled themſelves, for the determining of State-matters: and becauſe this *Curia*, did far exceed all others, therefore Authors many times uſe this word *q Curia* ſimply, without any adjunction, to ſignifie *Curiam Hoſtiliam*, as if there were no other. It much reſembleth our Privy-councel Chamber, in reſpect that none might ſit there, but only *Senatours*; whereas in the Court-houſe, which *Pompey* built (being therefore called *Curia*

p Alex. Gen. dier. l. 6. c. 11.

q Alex. Gen. dier. l. 1. c. 16.

Pompeia) r other City Magistrates were admitted amongst the *Senatours*: and in *Curia Julia*, *id est*, the Court-house which *Julius* made, were examined *f* forraign matters, as Embassages: but in *Curiâ Hostiliâ* domestical matters only were treated of, and that only by the *Senatours*. t At this present time, this hill is beautified with many Christian Churches, as the Churches of Saint *Stephen*, S. *Paul*, and S. *John*, our Saviours Hospital, *&c.* u It was also called *Mons Querculanus*, from the abundance of Oakes growing there.

r Rosin. ant l. 7. c. 5.

f Rosin. ibid.

t Munst. in sua Cosmog. l. 2. c. 9.

u Alex. Gen. dier. l. 6. c. 11.

CAP. 6.
De monte Esquilino.

THis hill was so named *quasi* x *excubinus ab excubiis*, *id est*, from the night watching, which *Romulus* did undertake upon that, somewhat distrusting the fidelity of the *Sabines*, in the beginning of their league. In this hill there were three hillocks, named, *Cispius*, *Oppius*, and *Septimius*.

x Rosin. ant l. 1. c. 8.

CAP. 7.
De monte Aventino.

THe *Aventine* mount, took his name *a* from *Aventinus*, a certain King of *Albanum*, which was there buried. Upon this hill stood *Hercules* his Altar, and certain Temples consecrated to *Juno*, *Diana*, *Minerva*, *Lucina*, and *Murcia*, *id est*, *Venus*: whence the hill hath sometimes been called *Diana* her hill, and *mons Murcius*. Upon *b* this mount, *Remus* would have built *Rome*, and therefore it was called *Remonius mons*: but since, it hath been called *mons Rignarius*, as it appeareth by *Plut.* in the same place. It had moreover the name of the *Holy mount*, being called in Latine *Mons Sacer*.

a Alex. Gen. dier. l. 9. c. 11.

b Plutar. in Romulo.

CAP.

CAP. 8.
De monte Viminali.

BEcauſe of the abundance of wicker twigs, which did grow upon this hill, it was called *Mons Viminalis*, *vimen* ſignifying a Twigge or Ozier. I am not ignorant, that ſome would have this hill to be named *Viminalis*, from *Jupiter Viminens*, whereas *Jupiter* himſelf was named *Viminеus* from this hill, becauſe he had here many Altars erected in the honour of him. Both this hill and *Jupiter*, were called *Fagutales*, from *ſylva fagea*, *id eſt*, a cops of Beech-trees, which did grow thereupon. *Vid. Roſin. Antiq. lib.* 1. *cap.* 9.

CAP. 9.
De tribus collibus adjectis.

THree *c* other hills there were, which in proceſſe of time were added unto the City; which partly, becauſe they were not included within the *Pomærium* ſo ſoon as the other, but chiefly becauſe they were not of ſuch note, therefore *Rome* retained the name *Septi-collis*. The firſt of thoſe hills was called *Collis Hortulorum*, *id eſt*, the hill of Gardens, ſo tearmed becauſe of the many Gardens near adjoyning.. *d* Here was the *Cirque*, or the ſhew place of the ſtrumpet *Flora*, which made the people of *Rome* heir to thoſe goods which ſhe had gotten by proſtituting her body to young Gentlemen, leaving alſo a certain ſum of money to procure a celebration of her birth-day: which becauſe of her infamy, the people ſhaming to do, they feigned her to be the Goddeſſe of flowers, and that ſhe muſt be firſt appeaſed, by ſports and plays, performed in the honour of her, before the trees and fruits of the earth would proſper; *e* and that they might gain the better credit unto this their Fable, they adde further, that ſhe was once called *Chloris*, and was married unto *Zephyrus*, from

c Roſin. ant. l. 1. c. 11.

d Bart. Lat. in Verrin. Orac. 7.

e Lactant. de fal. relig. l. 1. c. 20.

from whom by way of dowry ſhe received power over the flowers. The ſecond was called *Janiculus*, from *Janus* that two-faced God: who, as Writers teſtifie, was there buried. It did lye beyond the river *Tiber*, and hath now changed its name, being called from the yellow ſands, *Mons aureus*, and through negligence of the Printer, *Montorius, id eſt*, the Golden Mountain. The third was famous for the many divinations, and propheſies, uttered upon it, and thence was it named *Vaticanus* from *Vaticinium*, a fore-telling. *f* It is at this time famous for a Library in it, called *Bibliotheca Vaticana*.

f Munſt. in ſuo Coſmog. l. 2. c. 8.

CAP. 10.

De Foro Romano.

Forum hath divers acceptions: ſome times it is taken for a place of negotiation, or merchandiſing, which we call a *Market-place*: and being taken in this ſence, it hath commonly ſome adjective joyned with it, as *Forum boarium*, the Beaſt-market, *Forum piſcarium*, the Fiſh-market, *Olitorium forum*, the Herb-market: other times it is taken for any place, whereſoever the chief governour of a Province doth convocate his people together, there to give judgement according to the courſe in law: whence a man is ſaid, *Forum agere*, *g* when he keeps the *aſſizes*, and *Forum indicere*, when he appointeth the place where the *aſſizes* ſhall be kept. Thirdly, It is taken for a place, where controverſies in law are judicially determined, and Orations are had unto the people. At firſt, of this ſort were only three, *Romanum*, *Julium*, and *Auguſtum*, as is clearly evidenced by that of *Martial*,

Atque erit in triplici par mihi nemo foro.

Afterward the number was increaſed to ſix diſtinct *Forums*: one called *Forum Julium*, becauſe it was built by *Julius Cæſar*. A ſecond was added by *Octavius Auguſtus*, called therefore *Auguſti Forum*. The third *Forum*, was

g Hubert. in Cic. l. 3. ep. fam. 6.

founded

founded by *Domitian* the Emperour: but by reaſon of his ſudden death, *Nerva* had the finiſhing thereof. It had the name of *Forum Tranſitorium*, the tranſitory *Forum*, becauſe there was *Tranſitus, id eſt*, a way or paſſage through it into three ſeveral Market-places. The ſame *Martial* called it ſometimes *h Forum Palladium*, becauſe in the middle thereof a Temple was erected in the honour of *Minerva*. A fourth was added by the Emperour of *Trajanus*, wherein was erected a ſtately column or pillar 140. cubits high, having all the noble exploits performed by *Trajanus* engraven in it: another was called *Saluſtii Forum*, becauſe *Saluſt* bought it with divers Gardens adjoyning, which ſince have been called *horti Saluſtini*. The laſt *Forum*, which indeed was firſt built, and in all reſpects excelled the reſt, was called, *Forum Romanum*, and *Forum vetus*, or by way of excellency, the *Forum*, as if there were no other *Forum*: where we muſt underſtand, that as often as *Forum* iſuſed in this latter ſenſe, namely, for a pleading place, it is ſo uſed figuratively, by the figure Synecdoche: for in truth the pleading place, wherein Orations were had, was but one part of the *Forum Romanum*, namely, that *Chappel*, or great building, which they called *Roſtra*. *i* Round about this *Forum Romanum*, were built certain Trades-mens ſhops, which they termed *Tabernæ*, and alſo other ſtately buildings, called *Baſilicæ Pauli*. Here was the *Comitium*, or Hall of Juſtice; the *Roſtra, id eſt*, the Orators Pulpet; *Saturnes* Sanctuary, or the common treaſure-houſe, and *Caſtors* Temple: of all which in their order.

h Lipſius de magnitud. Rom. l. 3. c. 7.

i Hen. Sal. muto in Pancirol. lib. rerum deperd it cah. de Baſil. & taber.

CAP. II.
De Baſilicis.

Baſilicæ were upper buildings, of great ſtate and much coſt, being ſupported with *Pilæ, id eſt*, flat-ſided pillars; and having underneath them walks, much reſembling our Cloiſters, ſaving the *Intercolumnia*, or ſpace between

tween the pillars lay open unto the very ground. That they were upper buildings may be collected by the custome of many men, which were wont to walk under those Basilical buildings, and therefore were called, *Subbasilicani* by *Plautus*. The use of these were principally for the *k* Judges to sit in judgement: but in their absence it was lawful for Marchants to deal in their businesses. Those of chief note were three, thus named, *Pauli*, *Porcia*, and *Julia*.

k Sigon. de antiq. jud. l. 1. c. 28.

CAP. 12.
De Comitiis.

l Sigon. de. jud. l. 1. c. 7.

Comitium l was a part of the *Forum Romanum*, being a great large hall of justice, which for long time was open at the top, having no covering, and for that reason the assemblies were often dissolved in rainy, or unseasonable weather. In it stood the *Tribunal*, being a place erected up on high, in form of our pulpits, but many degrees larger, and in the midst thereof, the *Sella Curulis*, *id est*, the Ivory chair, from whence the chief Magistrate administred justice; other inferiour Magistrates sitting on Benches on each side, which were called *Subsellia*, because they were lower than the Tribunal. Those which sate upon these Benches had power *cognoscere*, but not *pronunciare*; much like to our Justices a Assises, which may examine or inform against a malefactor, but not condemn him. Where we may observe the differrence between *Comitium*, signifying such an edifice, to building, and *Comitia*, signifying the *Roman* Assemblies: both being called *à coeundo*. This hall was many times called by the name of *Puteal Libonis*. The reason of which name is rendred thus by *m* some. That in this *Comitium Attius Navius* did once with a Razor cut in two a Whetstone, and in memory thereof, his Statue was erected, with an Hat upon his Head, for *Puteal* properly doth signifie the Cover of a Well, but in a large acception, it signifieth

m Cœl. Rhod. l. 10. c. 17.

ſignifieth a broad-brimmed hat, as *Cœlius Rhodiginus* noteth in the ſame place. [n] *Cicero* toucheth this: *Cotem illam, & novaculam defoſſam in comitio, ſupraque impoſitum Puteal accepimus.* But why it ſhould be called *Puteal Libonis*, is yet doubtful, except haply *Libo* was the firſt erector of this ſtatue. That it was a common Court, and known place of Juſtice, *Horace* witneſſeth: *Roſcius orabat, adeſſes ad puteal cras.*

n Cic. de divinat.

CAP. 13.

De Roſtris.

NExt to the *Comitium* ſtood the *Roſtra*, a goodly fair Edifice, in manner of the body of a Cathedral Church: In it ſtood an Orators Pulpit, deckt and beautified with the ſtems of many Ships; which the *Romans* got from the people of *Antium*, in a memorable battel upon the Sea: And [o] hence from thoſe Ship-beaks, called in Latine *Roſtra*, hath this place taken its name. It may be Engliſhed, the great Oratory, or place of *Common-plea*.

o Hubert. in Cic. ep. lib. 8. ep. fam. 1.

CAP. 14.

De Templo Caſtoris.

ANother part of the *Forum* was a Sanctuary built in the honour of *Caſtor* and *Pollux*: the reaſon thereof was becauſe they appeared unto the *Romans* in the Latine war, in the likeneſſe of two Angels ſent from Heaven to lead the *Roman* army, and to aſſiſt the Romans againſt the *Latines*: who being vanquiſhed, they ſuddenly were departed out of the field none knowing how: and even in the ſame moment they appeared upon their ſweating Horſes unto the *Roman* Citizens in the *Forum*, who taking them for Souldiers, demanded what news they brought home from the Camp; they replyed, that the *Romans* were Conquerours: which newes being delivered, they ſuddenly vaniſhed, and were ſeen

no more. Upon this occasion did *A. Posthumius* being at that time *Dictator*, build a Temple in that place of the *Forum*, where they were seen in honour of them both. Although in the after Ages, it had the name only of *Castors* Temple. Whence arose the jest of *M. Bibulus*, against his fellow Consul *Julius Cæsar*, saying; it fared with him, as it did with *Pollux*; *id est*, as this Temple which was erected in the honour of both the brethren, carried the name only of *Castros* Temple; so the great expences in exhibiting shews in the time of their Consul-ship, though they were deeper on *Bibulus* his side, yet *Cæsar* carried away all the thanks, and credit. In so much, that the People being wont to subscribe the names of both Consuls at the end of their Deeds, and Charters, for a Remembrance of the Year; that year they wrote, such a thing done; not *Bibulus* and *Cæsar*, but *Julius* and *Cæsar*, being Consuls.

CAP. 15.

De æde Saturni.

Saturns Sanctuary *q* was the Common Treasure-house, wherein the Subsidie Money which the Commons paid unto the Treasurers, called *Quæstores*, was to be laid up, whereof diverse Conjecture diversly. *Alexander Nedier.* [r] saith, that *Saturne* found out the use of brasen money: and therefore this Temple might be thought the fittest place for the Treasury. *Plutarch* thinketh rather, that the making of the Treasury in that place did allude to the integrity of time, wherein *Saturne* reigned, being the Worlds Golden Age. [f] But the most received opinion, is the strength of the Place, whereby it was the safer from Theeves. The Temple, by reason of the use it was put unto, was called *ærarium* from *æs*, *id est*, Brasse: Which name now is common to all Treasure-houses; for that the first money used by the *Romans* was of that mettall, until the year of *Rome*, 485. (as *Pliny* wit-

q Plutarch in Publicola.

r Alex. Gen. dier. l. 4. c. 15.

f Alex. Gen. dier. l. 2. c. 2.

witneſſeth, *lib.* 3. *cap.* 33.) *t* Some are of opinion, that before the uſe of braſs, they made mony of leather: whence *Numa Pompilius* is ſaid to have given leather money in a dole unto the people. Touching their order obſerved in the Treaſury, we muſt underſtand that their care in providing againſt ſuddain dangers was ſuch, that they laid aſide the twentieth part of their receipts, which they *u* called *Aurum viceſimarium*, *Inceníimarium*, and *Cimiliarchium*, into an inner Chamber or more ſacred room, named in Latine *Erarium ſanctius*. *x* We may read alſo of a third Treaſury called *Erarium militare*, wherein *Auguſtus* had appointed that the twentieth part of certain Legacies ſhould be laid up to defray charges in extraordinary Wars: where it lay ſo priviledged, that it was a capitall crime to uſe any of it, but in extream and deſperate neceſſity. Notwithſtanding, howſoever it was uſed as a Treaſure-Houſe *x* yet divers Authors teſtifie that the Acts of their Senate, the Books of Records, together with ſuch Books, as were for their immeaſurable bigneſs, called *Libri Elephantini*, wherein all the names of their Citizens were regiſtred, and alſo their Military Enſignes, were contained there. *y* And from thoſe Statute Books called *Tabulæ Publicæ*, this Treaſury was alſo called *Tabularium*, becauſe they were laid up there.

t Alex. Gen. dier. l. 4. c. 15.

u Alex. Gen. dier. l. 2. c. 2.

x Servius l. 2. Virg. Georg.

x Alex. Gen. dier. l. 2. c. 2.

y Plutarch in ſuis problemat. vid. Franc. Sylvium in Catili. nar. 4.

CAP. 16.

De Campo Scelerato.

Campus Scleratus, the field of Execution *z* lying within the City, joyn'd to the Gate *Collina*. It was the place where the Veſtall Nuns, if they were deflowred, ſuffered Puniſhment after this manner. There *a* was made a Vault under the Earth, with a hole left open above, whereby one might goe downe; and within there was a little couch with a burning lamp, and a few Victualls whether the Defiled Votary was to be brought, through the

z Munſter. in ſua Coſmog.

a Plutarch. in Numa.

Market-place in a litter ſo cloſed up with thick leather, that her mournings might not be heard to the moving of pity. She being thus brought to the place of execution, was let down by a ladder into a hollow Cave, and the hole preſently ſtopped. And the reaſon why they ſuffered ſuch a kind of death, was, becauſe they thought it not fit that they ſhould be burnt with fire, which kept not the ſacred fire, with greater Sanctity: and it was thought unlawful to puniſh them by laying violent hands on them, becauſe they had in former time ſerved in ſo holy a function.

CAP. 17.

De Campo Martio.

b Roſin. anti. lib. 6. c. 11.

THe *b Campus Martius*, otherwiſe called *Tiberinus*, (becauſe it was near the river *Tiber*) was given unto the *Roman* people, by *Caja Tarratia*, a Veſtal Virgin; but *Tarquinius Superbus*, the laſt King of *Rome*, did take it from the people, converting it to his own private uſe, inſomuch that he ſowed Corn there; which, when he was depoſed, the *Romans* did caſt into the river *Tiber*, judging it unfit that any man ſhould reap any commodity from ſo holy a ground. In proceſſe of time the ſheaves of Corn being ſtopped in a ſhallow ford of the River, became firm ground, and was called, *The holy Iſland*, or *Æſculapius his Iſland*; and preſently after the expulſion of *Tarquinius*, this *Campus Martius* was reſtored unto its former uſe. Beſides the natural pleaſantneſſe of the place it ſelf, it was beautified with many ornaments brought out of the *Capitol* (the *Capitol* being too full) as likewiſe with divers images of well deſerving men. Hither did the younger ſort of *Romans* come to exerciſe Chivalry, namely, the Horſe-race, the foot-rate, wreſtling, fencing, caſting the bowl, the ſledg, the dart, uſing the ſling, the bow, vaulting, with ſuch like; and upon this occaſion it was dedicated unto *Mars*, and called by *Strabo*, *The*

The Romans Great School of Defence. *c*. The manner of vaulting, was in riding, to leap from one horſe-back upon another, their cuſtom being for their horſe-men in war, to lead a ſpare horſe in their hands, beſides that whereon they did ride, that when the one did ſweat, they leaped upon the others back; *à deſiliendo*, thoſe horſes were called *Equi deſultorii*: whence an unconſtant, wavering, and unſetled mind, which *Seneca* calleth *Volaticum ingenium*, others have called *Deſultorium ingenium*. In this field were men of beſt note burned when they died. Here were the Kings, and other Magiſtrates at firſt created. In this *d* field of *Mars*, alſo was a place at firſt railed, like a ſheep-pen, called therefore *Ovilia*, or *Septa*; but afterwards it was mounted with Marble-ſtone, beautified with ſtately Walkes and Galleries, and alſo with a Tribunal or Seat of Juſtice, within which precinct the people oftentimes aſſembled to give their ſuffrages toward the Election of Magiſtrates. The means of aſcending up unto theſe *Ovilia* was not by ſtaires, but by many bridges made; for that time, every pariſh in the aſſembly of pariſhes, and every Tribe, or Ward in the aſſembly of the Tribes, and every hundred in the aſſembly of Centuries, having his Bridge: whence this Proverb was occaſioned, *de ponte dejiciendus, id eſt*, he is to be barred from giving his voice. *e* Theſe bridges were not made over any River, but over the dry Land; whence men were ſaid to be caſt, *Non ut periclitarentur de vita, ſed ne ſuffragarentur in Comitiis.*

c Cœl. Rhod. l. 21. c. 29. 30.

d Servius in Bucol. eclo. 1.

e Ioan. Saxonius in Orat. pro S. Roſcio.

CAP. 18.

De Circo Maximo.

AMongſt other places where the *Romans* exhibited their Playes unto the People, the moſt remarkable was the great Cirque, or ſhew-place, called in Latine *Circus Maximus*. It was a large piece of ground lying near that part of the *Aventine* Mount, where *Dia-*

na's Temple ſtood. It was built by *Tarquinius Priſcus*, with diverſe Galleries round about it, from whence the Senators and Gentlemen of the City did behold the running with great Horſes at liſts, the fire-works, tumbling, the bayting and chaſing of wild beaſts, *&c.* In former time, all did ſtand on the ground, being ſheltred from the rain by the help of boards upheld with forkes, in manner of Houſe-pentices: and this cuſtome continued untill the aforeſaid *Tarquinius* erected thoſe Galleries, called *Fori*, making thirty diſtinctions of them, alotting every Ward or Company their ſeveral quarters, all the ſeats being able to contain one hundred fifty thouſand parties. *f* Under theſe places, Cels, or Vaults, where Women did proſtitute their bodies, and would buy ſtolne goods, and for this reaſon *Horas* calleth it *Fallacem circum*, *i. e.* the deceitfull ſhew-place. There was at the one end of the cirque certain barriers, *i. e.* places barr'd, or rail'd in, at which place the horſes began the race: and at the other end was the mark, whither the horſes ran, it was called in Latin *Meta*, and the barriers *carceres*, *à coercendo*. Whence we ſay *a carceribus ad metam*, *i. e.* from the beginning to the ending.

f Roſin. antiq. lib. 5. c. 4.

CAP. 19.

De Theatro.

THe *Theatre* *g* hath his Name from the Greek Verb, Θεάομαι *id eſt*, to behold: becauſe the People flocked thither, to behold Plays and Shews exhibited to them. The cuſtome *h* firſt ſprang from the Shepherds, who leading a contemplative life, were wont to compoſe Dialogues in meeter, and at their leaſure to recite them under the trees preſſed down in form of an Arbor; whence this theatral term σκηνὴ hath been derived from σκιὰ a ſhaddow, but afterward learned Poets compoſed Comedies, and Tragedies, which were publickly Acted in the City upon a Stage: and although at the firſt it was counted infamous to frequent them, yet

g Joach. camerar. in orat. pro L. Flacco: *h* Servus lib. 2. Virg. Georg.

yet afterwards the Senators themſelves, yea the Emperour, and all the Chief of *Rome* Aſſembled thither. *i* Neither for a long continuance were there any Seats built, but Commons and Nobles, promiſcuouſly one with another, all ſtood on the ground: inſomuch that thoſe which ſtood behind, raiſed up places with turfs of Earth, which gave the people occaſion to call the place between thoſe turfes, and the ſcaffold, *Cavea, id eſt*, a Cave or Den: yea the people that ſtood there, were ſo called from the place. Though the Theatre be now taken only for the Stage; yet then by it was underſtood the whole Room, where theſe Playes were Acted: and it had diverſe parts, ſome proper to the Actors, ſome to the Spectators. To the Actors, firſt belonged the *Proſcenium, id eſt*, the Houſe, whence the Players came: where they apparelled themſelves, though ſometimes it is taken for the Scaffold, or Stage it ſelf: Secondly, the *Pulpitum, id eſt*, the Stage or Scaffold upon which they Acted: and Thirdly, the *Scena*, that is, the partition which was commonly made of wood, not of hanging. Now that they might change their Scene, according to their pleaſure, they made it *k Verſatilem, id eſt*, ſo that with Engines, it might upon the ſuddain be turned round, and ſo bring the Pictures of the other ſide into outward appearance: or otherwiſe *Ductilem, id eſt*, ſo that by drawing aſide of ſome wainſcot ſhuttles (which before did hide the inward painting) a new Partition might ſeem to be put up: And I think, becauſe thoſe Shepheards did Act no more at a time, then one of our Scenes; Hence have we diſtinguiſhed our Playes into ſo many parts, which we call Scenes. The places which were proper to the Spectators were diſtinguiſhed according to their degree and rank; for the remoteſt benches were for the *Commons*, and called *Popularia*; the next for the *Knights* and *Gentlemen* of *Rome*, and called therefore *Equeſtria*; the others wherein the *Senators* did ſit, were commonly called *Orcheſtra*: this may be collect out of * *l Lipſius*, *m Cœl. Rhodiginus* ſaith, that the *Or-*

i Alex. Genealis. l. 5. c. 16.

k Servius. l. 3. Virg. Georg.

* *l* Lipſius de amphith. c. 14. *m* Cœl. Rhod. lib. 8. cap. 8.

Orcheſtra was that place joyning to the Stage, where *Chorus* ſpake to the people at the end of every act. Divers Authors are of *Cœl. Rhod.* his opinion, deriving the word *Orcheſtra*, from the Greek ὀρχεῖσθαι to dance; but it ſeemeth more probable to have been a peculiar place, alotted for the Senators: *Ju. Sat.* 3.

Æquales habitus illic ſimilemque videbis
Orcheſtram, & populum--id eſt, optimates & plebem.

The whole building made for entertainment of the Spectators, reſembled a triangle or wedge, ſharp towards the Stage, and broad behind, whence the whole was denoted by the name *Cuneus*; when *Cuneus* ſignified any particular place about the Theatre, then by it we are to underſtand that which formerly we call'd *Popularia*, the place for the meaner ſort of people; *n* whence when we would point out a baſe and ignoble perſon, *Inter cuneos reſidere dicti tamus.* There was alſo another kind of ſcaffold, built quite round, made as it were of two Theatres joyn'd together, it was called *Amphitheatrum*, and differ'd from the Theatre, only as the full Moon doth from the half, or a compleat rundle from a ſemi-circle; it *o* reſembled an egg. Upon this kind of Scaffold did the Maſters of Defence play their Prizes; and wild beaſts were baited. *p In Amphitheatro gladiatorii ludi, & concluſarum ferarum venationes exhibebantur.* The *Amphitheatre* it ſelf, in the judgement of *Lipſius q* was termed *Cavea, ab interiore parte quæ concava erat*; and *Arena*, becauſe it was ſtrewed with gravel and ſand, that the blood of ſuch as were ſlain in the place, might not make the place too ſlippery for the Combatants. Hence cometh that phraſe, *In arenam deſcendere*, to go into the field; and the Combatants were thence called *Arenarii*. Here we muſt note, that howſoever the *Amphitheatre* was ſtrewed commonly with common and ordinary gravel, yet ſometimes in their extraordinary ſhews that gravel was covered, and as it were new coated, with the ſcrapings and duſt of ſome extraordinary ſtones, to add the greater luſtre unto it; thus much *r Pliny* intimateth, *Invenere & alium*

n Cæl. Rhod. lib. 8. cap. 8.

o Turneb. ad verſ. lib. 5. c. 5.

p Hoſp. de origeſt.

q Lipſ. de Amphith. c. 3.

r Plin. lib. 36.

alium usum ejus lapidis, in ramentis quoque Circum maximum sternendi, ut si in commendatione & candor, &c. Again, sometimes the hollow places or dens under the *Amphitheatre*, in which the wild beasts were kept, and like wise men to be committed with wild beasts, out of which these were let loose by the lifting up of trap-doors to be hunted or baited upon the *Amphitheatre*, were call'd *Cavea*. For we must know, that the *Amphitheatre* was full of hollow passages for many reasons, as for the convenient keeping of wild beasts & beastiaries, so sometime for the better conveying of waters thither, by the means whereof ſ real Ships, and Sea-skirmishes were oftentimes exhibited upon the *Amphitheatre*. ſ Suetan. in Domitian.

CAP. 20.

MOreover, for the better understanding of Classical Authors, it will not be impertinent to point at the general names by which the religious places were called, and to declare the proper acception of each name; the names being these, *Templum, Fanum, Delubrum, Ædes sacræ, Pulvinar, Sacrarium, Lucus, Scrobiculus, Ara, Altare, Focus.*

De Templo.

This word *Templum* doth sometimes signifie those *a* spaces and regions in the ayr and earth, which the *Augures* did quarter out with their crooked staff at their South-saying: sometimes it doth signifie a Sepulchre or Grave, *c* because in old time men did superstitiously pray and worship at the Tombs and Monuments of their deceased friends, as if it had been in *Temples* or *Churches*; and in this sense may *Virgil* be understood,

a Rosin. ant. l. 2. c. 2.

c Lilius Gyrald de diis gentil. syntag. 17.

d *Præterea fuit antiquo de marmore Templum*
Conjugis antiqui ———— *d* Lib. 4. Æneid. v. 457.

Most commonly it doth signifie a *Church*, or *Temple*; in which sense as often as it is used, it is *e* said, *à templando*, from beholding; because when we be in the Church, by lifting up our hearts by a divine contemplation, we do as it were behold the great Majesty of God. *e* Frac. Sylvius in orat. pro L. Muræn.

De Fano

It is also called *Fanum à fando*, from speaking; not from the speaking of the Priest, but because the people do there speak unto God, and God again to the people. *f* Some are of opinion, that *Fanum* in property of speech, signifieth the *Churchyard*, or court before the Temple; *Templum* signifieth the Edifice or Church built.

f Turneb. adver. lib. 3. c. 9.

De Delubro.

Thirdly, a Church was called *delubrum*, *Synedochicus*, because it was the principle part of the Church; namely the place where the Idol-god stood; and it was called *delubrum* from *Deus*; *g* as we call the place where the candle is put, *candelabrum* from *candela*. As concerning the outward form of the Churches, some were uncovered, because they counted it an hainous matter to see those Gods confined under a roof, whose doing good consisted in being abroad; other-some covered; some round, some otherwise; but within they much resembled our great Churches. They had their *pronaon*, or *Church-porch*, whereabouts they were wont to have the image of the beast *Sphynx*, which was so famous for his obscure riddles; so that by this image was signified, that the oracles of the gods which were treated of within the Church, were dark and mystical. They had certain walks on each side of the *body of the Church*, which they called *porticus*; and in these places it was lawful for them to merchandize, make bargaines or confer of any worldly business; as likewise, in the *Basilica* or *Body* it self. But their *Quire*, call'd *Chorus*, was counted a more holy place, set apart only for divine service. The manner of hallowing it, was as followeth. *h* When the place where the Temple should be built, had been appoynted by the *Augures* (which appointing, or determining the place, they called *Effari templa, & sistere Fana*) then did the party, which formerly in time of need upon condition of help from the gods, had vowed a Temple, called together the *Aruspices*, which should

g Rosin. ant. l. 2. c. 2.

h Rosin. Ibid.

ſhould direct him in what form the Temple ſhould be buiſt; which being known, certain ribbands, and fillets were drawn about the *area* or plot of ground, with flowers and garlands ſtrewed underneath, as it was probable, to diſtinguiſh the limits of this ground now to be hallowed. Then certain ſouldiers marched in with boughs in their hands, and after followed Veſtal Nuns, leading young boyes and maids in their hands, who ſprinkled the place with holy water. After this followed the *Prætor*, ſome *Pontifice* going before, who after the *area* had been purged by leading round about it a Sow, a Ram, and ſacrificed them, and their entrails being laid upon a turf, the *Prætor* offered up prayers unto the gods, that they would bleſs thoſe holy places, which good men intended to dedicate them. This being done, the *Prætor* touched certain ropes, wherewith a great ſtone being the firſt of the foundation, was tyed: together with that, other cheif Magiſtrates, Prieſts, and all ſorts of people did help to pluck that ſtone, and let it down into its place, caſting in wedges of gold and ſilver, which had never been purified, or tryed in the fire. Theſe ceremonies being ended, the *Aruſpex* pronounced with a loud voice, ſaying, *Ne temeretur opus, ſaxo aurove in aliud deſtinato*; *id eſt*, Let not this work be unhallowed, by converting this ſtone, or gold into any other uſe.

De Æde ſacra.

Fourthly, a Church was called *Ædes Sacra*, an holy houſe, becauſe of the ſacrifices, prayers, and other holy exerciſes performed therein. Although (as *Gellius* hath long ſince obſerved) every holy houſe was not a Church. For the proper note of diſtinction between a Church and a religious houſe was this, that a Church, beſide that it was dedicated unto ſome God, it was alſo hallowed by the *Augures*, without which hallowing the edifice was not called a Church, but a religious houſe; of which ſort was the Veſtal Nunnery, and the common-

Treasury called *Ædes Saturni*. We may add hereunto this word *Pulvinar*, i which doth often signifie a Church; the reason being taken from a custom amongst the *Painims*, who were wont in their Churches to make certain beds, in the Honour of their Gods, and those beds they called, *Pulvinaria*, from *Pulvis*, because they were filled with dust, or chaff.

i Bartholl. Latomus in l. hilippic. 4. am.

De Sacrario.

Sometime k *Sacrarium* signifieth a Temple, though properly it signifieth a Sextry or Vestry, *nempe l Sacrorum repositorium*.

k Cic. pro Milone.
l Franc. Sylvius in orat. pro L. Muræn.

De Lucis.

Near unto divers Temples, stood certain Groves dedicated to some of the Gods; they were called in Latine *Luci*, *à non Lucendo*, as divers say, by the figure *Antiphrasis*. But others are of a contrary opinion, giving it that name, because of the exceeding light it had in the night time, by reason of the sacrifices there burnt.

De Scrobiculo, Ara, & Altari.

The places upon which they sacrificed, either in their Religious Houses, or their Groves, were of three sorts: which we in English term Altars: but the *Romans* distinguished them by three several Names, *Scrobiculus, Ara, & Altare*.

De Scrobiculo.

m *Scrobiculus* was a furrow, or pit, containing an Altar in it, into which they powred down the blood of the beast slain, together with Milk, Honey, and Wine, when they sacrificed to an Infernal God.

m Alex. Gen. dier. l. 5. c. 16.

De Ara.

The second kind of Altar was called *Ara*, either *ab ardendo*, because their Sacrifices were burned upon it: or from their imprecations used of that time, which in Greek they called ἀραὶ It was made four square, not very high from the ground, or as some say, close to the ground: and upon this they sacrificed unto the Terrestrial Gods, laying a turf of grass on the Altar: and this gave *Virgil* occasion

occaſion to call them *n Aras gramineas, id eſt*, graſſie altars. n Virg. Æn. 12.

De Altari.

The third ſort was called *Altare*, either becauſe it was exalted, and lifted up ſomewhat high from the ground; or becauſe he that ſacrificed (by reaſon the Altar was ſo high) was conſtrained to lift up his hands *in altum*, on high: *o* and upon this they ſacrificed unto their cæleſtial Gods only. o Serv. in Bucolic. eclog. 5.

De Foco.

Focus is a general name, ſignifying any of theſe Altars. So called *á fovendo*: becauſe as *Servius* hath obſerved, that is *focus, quicquid fovet ignem, ſive ara ſit, ſive quicquid aliud in quo ignis fovetur*. But in ſtrict propriety of ſpeech, it is taken for that Altar on which they ſacrificed to their domeſtick Gods, ſuch as were their *Penates* or *Lares*. As it appeareth by *Plautus*, *p*.

p Aulular. act. 2. Sc. 5.

Hæc imponentur in focum noſtro Lari
Ut fortunatus factat gnatæ nuptias.

Whence ariſeth that Adage *Pro aris & focis certare* ſounding as much as to fight for the defence of Religion, and ones private Eſtate; (or as our *Engliſh* Proverb is) for God and our Country; the Proverb being in its Original, part of the Oath that was adminiſtred unto the *Romane* Soldiers: and thus it is expounded by *q Turnebus*. q Turneb. Adv. l. 10. c. 7.

LIB. I. SECT. 2.

The general diviſions of the Romane people.

CAP. I.

De populo Romano, & ejus prima Diviſione.

THus having premiſed a ſhort Treatiſe, concerning the firſt Situation of *Rome*, and the moſt remarkable parts thereof, I purpoſe to proceed to the Inhabitants, which Antiquity hath ſtiled Citizens of *Rome*. And *Eraſmus* rather deſcribing a *Romane*, then defining him, ſaith, A *Romane* was grave in his Converſation, ſevere in his Judgment, conſtant in his purpoſe: Whence *Cicero* in his Epiſtles often uſeth this phraſe, *More Romano*, for *ex animo, id eſt*, unfeignedly. *a* *Sigonius* rendring the definition of a *Roman* Citizen, averreth, that no man is *Lege Optima, id eſt*, in full and compleat manner a Citizen of *Rome*, but he which hath his Habitation there, which is incorporated into a Tribe, and which is made capable of City preferments. By the firſt particle, thoſe which they term *Municipes*; by the ſecond, thoſe which they call *Inquilini*; and by the third, thoſe which they call *Libertini* are in a manner diſfranchiſed. But whereas *Sigonius* ſaith, that they muſt have their Habitation at *Rome*, he would not be ſo underſtood, as if a *Romane* Citizen might not remove his Habi-

a Sig. de jur. Rom. l. 1. c. 1.

Habitation to any other Country : For, ſaith he, a *Roman* Citizen may be as long abſent from *Rome*, and the fields belonging to *Rome*, as he pleaſes, ſo that he ſuffer himſelf to be Seſſed and Taxed in common with others toward the Subſidie Payments, and denieth to be incorporate into another City. For *T. Pomponius* was a true Citizen of *Rome*, though he dwelt at *Athens*. The *Roman* Citizens being by theſe priviledges, as by a more proper and peculiar character diſtinguiſhed from other people; and being planted in the City, according to the appointment of *Romulus* their King, it ſeemed good unto him, to divide them into *b* Tribes, not taking the note of diſtinction, only from the diverſe places they then inhabited, as we read that *Servius* the ſixth King of *Rome* did, making therefore four Tribes τοπικὰς, local namely *Suburbanam*, *Palatinam*, *Collatinam*, and *Eſquilinam* (which number of local Tribes in proceſs of time increaſed unto the number of 35) but dividing them according to their ſeveral nations, which at the firſt were *donati civitate*, *id eſt*, made free Denizens of *Rome*: and they being in number three. 1 The *Sabines*, which were named *Tatienſes*, from their King *Tatius*. 2 The *Albanes*, called *Rhamnenſes* from *Romulus*. 3 Other Nations promiſcuouſly flocking out of other Countries to the *Roman Aſylum* placed in a Grove, called in Latine *Lucus*, which gave *Romulus* occaſion to name them *Luceres*) he made in all three Tribes γενικὰς or National. After that *Romulus* had thus divided the whole body of the *Romans* into three Tribes, he then ſub-divided each Tribe into ten leſſer numbers, which he called *Curiæ*, or Pariſhes: and then followed five other diviſions in reſpect of their different degrees, and callings: of which in their ſeveal order.

b Sig. de jur. Rom. l. 1. c. 3.

CAP.

CAP. 2.

De prima Divisione Romanorum, in Senatores sive Patres, Patricios sive Patronos, & Plebeios sive Clientes.

THe first division of the *Romans* in respect of their degree and place, was this; The elder, wealthier, and gravest sort of *Romans*, were called sometimes *Patricii*, either because of their age or gravity; or because they had many children (for great priviledges were granted unto fathers of three children;) and sometimes *Patroni*, because they were as Patrons and Fathers in helping and assisting the causes of the common people seeking to them. The younger, poorer, and simpler sort were called, as they had relation to the *Patricii*, *Plebeii*, *id est*, the Commons; as they had relation to their *Patroni*, they were named *Clientes*, *id est*, Clients; between whom *c* there was such a mutual and reciprocal intercourse of Love and Duty, that as the *Patrons* were ready to protect their Clients, so the *Clients* were bound with all faithfulnesse to cleave unto their Patrons: and that not onely to Credit them with their Attendance in publique Assemblies, but to disburse out of their own purses towards the bestowing of their Daughters, the paying of Publique Mulcts, the giving of largesses in suing for Offices, *&c.* Neither was it Lawfull for either of them to inform, to depose, to give their voices, or to side with Adversaries one against another, without the Guilt of Treason; for which crime of Treason they were, *Diis infernis devoti*, cursed to Hell, and the Law gave liberty for any man to kill them. Out of the *Patricii* did *Romulus* elect a hundred counsellors to assist him in determining matters concerning the Common-weal: to these did *Romulus* after add another hundred, and *Tarquinius Priscus*, as divers Authors testifie, made them compleat three hundred, which they call *Patres*, or *Senatores*, and their Sons *Patricii*. But in process of time, the

c Lazius de Repnb. Rom. l. 12. c. 3.

the Commons alſo were eligible into a *Senators* place. Some ſay that *Tarquinius Priſcus* added the ſecond hundred to the *Senate* out of the Commons, who are called *Senatores minorum gentium, id eſt, Senators* of the lower houſe. *Brutus* added the laſt hundred, and made them 300. at what time they began to be called *Patres conſcripti*. And this accordeth with *Joannes Roſa* in his Epitome to the *Roman* Hiſtory, in his *Ch. de Regibus Romanis*: where he ſaith, that *Tarquinius Priſcus* did double the number of the *Senators*: And likewiſe *e Alexander Neop.* ſaith, that *Brutus* made them compleat 300.

d Marr. Philericus in Cic. l. 1. ep. fam. 1.

e Alex. Gen. dier l. 2. c. 29.

CAP. 3.

De ſecunda diviſione Romanorum in tres ordines: Senatorium, Equeſtrem, Popularem, *ſeu Plebeium.*

After that through *Tarquinius Superbus* his Tyranny, the very name of a King became odious to the *Romans*, not only the preſent King was exiled, but the Authority of a King ever afterward deteſted and perpetually abrogated; ſo that the office which was before Monarchical, then was divided between two, called *Conſuls*: Neither were they admitted for any longer ſpace than one year. At which time of change the *Romans* were divided into three orders or ranges. 1. Into *Senators*, of whom before. 2. Into *Gentlemen*, called of the *Romans, Ordo Equeſtris*: by which we do not underſtand thoſe 300. *Celeres, id eſt*, Pentioners, called ſometimes *Equites*; for that was a place of ſervice, this is a title and token of gentility; who although they were inferior to the chief Senate, yet they were of great eſteem among the *Romans*; and although they might not wear the ſame Robe as the Senators did, namely the *Laticlavium*, or garment beſtudded with flouriſhings of purple ſilk in manner of broad nails heads; *f* yet they might wear the *Auguſticlavium*, a garment different from the former only in this, becauſe

f Roſin. ant. l. 1. c. 17.

the purple ſtuds wherewith it was purfled, was narrow, and not ſo large as the *Laticlavia* *m*. They alſo at the time of their Election received from the *Cenſors* a houſe called by them *Equus publicus*, becauſe of the yearly allowance out of the common treaſury to keep him; it was alſo called *Equus militaris*, becauſe of their ſervice in war *g* (they having their horſes kept as well in peace as war.) They received alſo a Gold Ring, *h* whereby they were diſtinguiſhed from the populacy: for it was not lawful for any to wear a Gold Ring under the degree of a Senate, or a Gentleman. The eſtimation and value of a Senators eſtate *i* until *Auguſtus* his time, was *octingenta ſeſtertia*, that is, 6000. *l.* *k* Of a Gentlemans eſtate it was *quadringenta ſeſtertia*, id eſt, of our Engliſh mony 3000. *l.* The third order or degree in the *Roman* Common-wealth, was *Populus*, the Populacy, or *Commons*, which ſhould exerciſe trading, manure the ground, look unto the cattle, *&c.* Where by the way we muſt underſtand, that the baſer ſort of the *Romans* which did wander up and down, to and fro, not ſetling themſelves to any vocation, were not contained within this diviſion; for unto them there was no name vouchſafed, but according to the Poet, they were *ſine nomine turba*, or as *Livy* ſaith, *ignota capita*, men of no account, and therefore of no name.

g Liſp. de magnitud. Rom. l. 1. dial. 5.
h Alex. Gen. dier. l. 2. c. 29.
i Suet. in Auguſt.
k Plin. lib. 33. c. 22.

CAP. 4.

De tertia diviſione in Nobiles, Novos & Ignobiles.

THis diviſion was taken from the right or priviledge of having Images; for they were accounted Noblemen, which had the Images of their Predeceſſors: Thoſe which had their own Images only, were called *Novi*, that is, late quoined Nobles or upſtarts. *Saluſt* uſeth this word often in the diſgrace of *Tully*, calling him *Novum & repitinum civem*, one that lately crept into the City. The third ſort, called *Ignobiles*, were thoſe that had no Images, neither

neither of their Predeceſſors, nor of themſelves. Before we proceed, we muſt underſtand, that it was not lawful for who would to have his own Image if he ſo deſired; for none might be thus priviledged but thoſe alone to whom the right of riding in a Curule chair belonged; and to theſe the right of Images was permitted, as well for the credit of their houſe, as to incite others to the like atchievments, when they would conſider the divers ceremonies uſed unto theſe Images in an honourable remembrance of thoſe whom they did repreſent. Whence it followeth, that *Jus nobilitatis* is nothing elſe but *Jus Imaginis*; Inſomuch that this word *l Imago* doth ſometimes ſignifie Nobility; and the right of having Images with them, was the ſame as the right of having Armes with us. *m* The ſuperſtitious conceit which the *Romans* had of theſe Images was ſuch, that upon feſtival dayes, and all occaſions of joy and mirth, thoſe Images ſhould be beautified and adorned with garlands and flowers; upon occaſion of grief and mourning, they would take from them all their ornaments, making them in a manner partake of their mourning. Some they kept in their private Cloſets, *n* others they expoſed to the publick view of paſſengers, placing them in the gates of their houſes, together with the Swords, Targets, Helmets, Ship-beaks, and ſuch other ſpoils as formerly they had taken from their enemies; *o* which it was not lawful for any, though they bought the houſe, ſo much as to deface. Yea they were ſo annexed to the freehold, that they paſſed alwayes in the conveyance of the houſe. The matter of which they were commonly made, was wax, as that of *Juvenal* doth ſufficiently witneſs,

l Sig. de jur. Rom. l. 2. c. 22.

m Alex. Gen. dier. l. 5. c. 24.

n Bart. Lat. in Verrin 7.

o Plin. 25. 1.

p Tota licet veteres exornent undiq; coræ
Atria, nobilitas ſola eſt atq; unica virtus.

p Juv. Sat. 8.

Again, we may not think, that they made in wax a compleat ſtatue, or a full portraiture or the whole body, but only from the ſhoulders upward.

CAP. 5.

De quarta divisione Romanorum in Optimates *&* Populares.

THis fourth division of the *Romans* hath been occasioned through the faction and siding of the Citizens. Those (according to the description of *q Tully*) were *Optimates, id est*, the best Citizens, who desired their actions might be liked and approved by the better sort: Those *Populares, id est*, popular, who through desire of vain glory, would not consider so much what was most right, as what should be most pleasing unto the populacy: So that here by this word *Popular*, we understand not the commons as formerly we did, *r* but be he Senator, Gentleman, or inferior, if he do more desire that which shall be applauded by the major part, than that which shall be approved by the better part, him the *Romans* called *Popular, id est*, such a one, that preferreth the popular applause before the right.

q Cic. pro. Sextio.

r Geor. Merula in orat. pro Ligario.

CAP. 6.

De quinta & ultima divisione Romanorum, in Libertos, Libertinos, *&* Ingenuos: *Item de* Manumissione.

THe difference of the freedoms in the City of *Rome*, hath given occasion of this division: for he or she that had served as an *Apprentice*, and afterward was manumised, was named *Libertus*, or *Liberta*. The son whose father and mother were once Apprentices, was called *Libertinus*; but that son whose father and mother were both *libertines*, or both free born. *f* yea whose mother only was free, was called *Ingenuus, id est*, freeborn. But after *Appius Caecus* his Censorship, then began *Liberti* and *Libertini* to signifie one and the same degree of freedom; so that *Liberti* and *Libertini* were

f Justin. inst. l. 1. tit. de ingenuis, vid. Franc. Sylv. in Cartilin. 4.

were taken for thoſe which ſerved for their freedom, and *Ingenui*, were taken for thoſe which were free-born, whether their Parents were *Liberti*, or *Libertini*. Here is occaſion given us to conſider the manner of their freedom, and ſuch ceremonies which belonged thereunto. The freedom of the city of *Rome* was three wayes obtained; 1. By *Birth*, both, or at leaſt one of the parents being free; and ſuch were called *Cives originarii*, 2. By *Gift* and *co-optation*, when the freedom was beſtowed on any ſtranger, or Nation, and they were termed *Civitate donati*: and ſo we read that *Ceſar* took in whole Nations into the freedom. Laſtly, by *Manumiſſion*, which was thus: when as the ſervant was preſented by his maſter before the *Conſul* or *Prætor*, the maſter laying his hand upon his ſervants head, uſed this form of words, *Hunc liberum eſſe volo*, and with that giving him a cut on the ear, he did *emittere ſervum è manu*: the *Prætor* then laying a certain wand or rod called *t Vindicta* upon the ſervants head, replied in this manner, *Dico eum liberum eſſe more Quiritum*. Then the *Lictor* or Sergeant taking the wand, did ſtrike therewith the ſervant on the head, and with his hand ſtruck him on the face, and gave him a puſh on the back, and after this he was regiſtred for a freeman. Moreover, the ſervant having his head ſhaven purpoſely at that time, received a Cap as a token of liberty; whence *ad pileum vocare aliquem*, is to ſet one at liberty, as likewiſe *Vindicta liberare*. *u* According to *Tertullian*, at this time of their manumiſſion the ſervants received from their maſters a white garment, a Gold ring, and a new name added unto their former. Whoſe authority if we admit, then the having of three names among the *Romans* was rather a ſign of *Freedom*, than of *Nobility*. And that of *Juvenal*,

Tanquam habeas tria nomina ——

Is not to be expounded, *as if you were a nobleman*, but, *as if you were a freeman*. Here we may alſo conſider the two ſeveral kinds of ſervants; the firſt were called *ſervi*, and

t P. Ramus in orat. pro C. Rabirio.

u Tert. de te ſur. carn.

and they could never attain to any freedom, without the consent of their master. *x* For those that were thus *servi*, were commonly captives, either bestowed as a reward upon this or that Souldier, or bought *sub corona*, or of other Citizens that had gotten them one of these two former wayes. The second were called properly *y nexi & addicti*, because though they were free, yet by reason of their debt, *addicebantur*, that is, they were delivered up unto their creditors by the *Prætor* to work out the debt, so that after the payment thereof, either by money or work, they did recover their liberty; whence they were said *z nomina sua liberare*, when they paid the debt: as on the contrary they were said *nomina facere* when they became in debt. And their creditors when they sued for the payment, were said *nomina exigere*: *nomen* in these and the like places signifying as much as *debitum* a debt, *a* because their creditors did use to write down their debtors names. *b* The manner of suing for their debts was as it followeth; The debt being confessed, thirty dayes were allowed the debtor for the payment of the money (those dayes of respite they called *dies justos, velut justitium quoddam*, id est, *juris inter eos interstitionem & cessationem.*) The money not paid, the debtor was delivered up as a servant to his creditor, yea he was sometimes cast into prison; and unless the creditor were in the mean time compounded with, he remained threescore dayes in prison, and three Market dayes one after the other being brought before the Judge, the debt was solemnly proclaimed, and upon the third Market day he was either sold to forreigners for a slave, or else was punished with death, each creditor being suffered if he would, to cut a peice of his dead body instead of payment.

x Dion. Halicar. l. 4.

y Sig. de jur. Rom. l. 1. c. 31.

z Mic. Toxita. in orat. pro P. Quintio.

a Fr. Silv. in ep. virorum illust. l. 1. ep. 6.

b Vid. Cœl. Rhod. l. 12. c. 20. Ir. A. Gel. l. 2. c. 21.

LIB. II. SECT. I.

The General Diviſions of the ROMAN GODS.

CAP. I.
De Diis.

THough Satan had much blinded the hearts of men in old time, yet was not the darkneſs of their underſtanding ſo great, but that they did eaſily perceive and therefore willingly acknowledge, that there was ſome ſupream Governour, ſome firſt Mover, as *Ariſtotle* ſaith, ſome firſt Original of all goodneſs, as *Plato* teacheth. So that if any made this queſtion, Whether there was any God or no? he ſhould be urged to confeſs the truth of that, rather *Argumento bacillino, quam Ariſtotelico*, rather with a good cudgel, than with any long diſpute. But as they were moſt certain, that there was a God, ſo were they again very blind in diſcerning the true God: and hence hath been invented ſuch a tedious Catalogue of Gods, that (as *Varro* averreth) their number hath exceeded thirty thouſand, and proved almoſt numberleſs. Wherefore I ſhall obmit to make any diſtinct Treatiſe of the Gods, intending *obiter* and by the way to ſpeak of them, which either

either had Priests, or Sacrifices instituted for them. Only I purpose to shew what is understood by those general distinctions of the Gods which divers Authors have used. *Tul. lib. 2. de legibus*, reduceth all unto three heads, Gods celestial, which *Varro* calleth select, and others have styled Gods *majorum gentium, i. e.* of the greater nations, because their power was greater than the others. *a Alexander Neopolitanus* saith that twelve of these were the *Penates* which *Æneas* did take forth with him at the destruction of *Troy*. *Ovid* calleth them *Deos Nobiles*, noble Gods: others call them, *Deos consentes, quasi consentientes*, because *Jupiter* would do nothing without the consent of all. *Ennius* hath delivered them in this distich;

Juno Vesta, Minerva, Ceres, Diana, Venus, Mars,
Mercurius, Jovis, Neptunus, Vulcanus, Apollo.

a Alex. Ger. dier. l. 6. c. 6.

b Serv. in. lib. Georgic.

The second sort of Gods were called *Semidei, id est*, Demigods; also *Indigites, id est*, Gods adopted or canonised: men deified. For as the select Gods had possession of heaven by their own right: so these Gods canonized, had it no otherwise than by right of donation, being therefore translated into heaven, because they lived as Gods upon earth; but because their merit was inferior, and could not parallel the deserts of the Gods select, therefore were they called gods of inferiour note. *c Servius* would have these called *Divi*; observing this difference between *Dii* and *Divi*, that *Dii* should signifie those which had been gods perpetually, but *Divi* should signifie men made gods, though commonly they are used one for another. Whence they called all their Emperours *Divi*, because for their deserts they thought them worthy to be gods. Now the *d* manner how a man became deified was this: the party to be canonized being dead, a pile of wood was made in form of a great Tent, or Tabernacle, with three other lesser Tabernacles, one on the top of another, the lowermost having in it dry combustible matter, but on the outside adorned richly with Gold, Ivory, and painted Tables; hither the dead

c In Æneid. lib. 5.

d Rosin. ant. l. 3. c. 18. vid. Hospin. de orig. Christ. F. p. 21. vid. exemplum hujus consecrationis in Sveeri sepultur. Herod. 4. p. 297.

corps

corps was to be carryed with great ſolemnities; the Senate, the gentlemen, and all the chief Magiſtrates going before, with hymnes and ſongs, and all kind of honour, which was to be performed even to the Gods themſelves. He being in this manner brought, and laid within the ſecond tabernacle, the fire was kindled, by him who was to ſucceed in the Empire, for I find none canonized but onely Emperours at their deceaſe: forthwith at the kindling of the fire, a living Eagle was let fly from the top of the tabernacle which was ſuppoſed to tranſport the ſoul of the dead body into heaven, inſomuch that ever after he was canonized amongſt the Gods, and worſhipped as a God. And becauſe they were thus turned into Gods, ſome have called them *Deos animales, quoniam animæ humanæ verterentur in Deos.* This *e* canonization was by the Greeks tearmed ἀποθέωσις, by the Latines *conſecratio.* The third ſort were thoſe morral vertues, by which as by a ladder men climbed into heaven: and therefore did men ſtile them Gods, becauſe by their meanes men became deified. Late writers perceiving that all the number of the Gods could not be reduced unto theſe three heads, have added a fourth ſort which they *f* call *Semones, quaſi ſemi homines,* becauſe ancient writers, as *Roſinus* hath obſerved, called men *hemones*, not *homines*, in which point I ſhall willingly condeſcend unto him; but I ſhall leave to the judgement of others, to determine how juſtly he hath reſtrained the Gods *minorum gentium*, of the leſſer Nations, onely unto this laſt *claſſis*: whereas my opinion is, that the demygods, the moral vertues which have been ſtyled Gods, and theſe *Semones*, may all of them be called Gods of the leſſer Nations ſtanding in oppoſition with the Gods ſelect, which are called Gods of the greater Nations. But that we may underſtand what is meant by theſe *Semones*, we muſt remember that by them are ſignified unto us not thoſe Gods, which doe appertain to man himſelf, but to the neceſſaries of mans living, his victuals, his cloathing,

e Ser. in Æn. lib. 3.

f Roſin. antiq. lib. 2 c. 19.

and the like: not to the being of a man, but to the well-being of him, of which ſort is *Salus*, *Fortuna*, with others. We read likewiſe of other names given in common to divers Gods, not as oppoſite members of a diviſion, but as notes of diſtinction drawn from the diverſity of help, which they ſeverally did afford unto man. In this reſpect ſome were called *dii patrii*, or *tutelares*, ſuch as had undertaken the protection of any City or Town, which opinion had ſometimes been entertained by our Engliſhmen, and thence have riſen theſe and the like ſpeeches, St. *George* for *England*, St. *Dennis* for *France*, St. *Patrick* for *Ireland*, &c. And the Romans being fully perſwaded of the truth thereof, whenſoever they went about to beſiege any Town, by certain Enchantments, or ſpells they would firſt call out theſe Tutelar Gods; becauſe they deemed it a matter impoſſible to captivate the City, as long as theſe Gods were within; or at leaſt they thought it a crime unexpiable to take the Gods as priſoners. And leaſt other Nations might uſe the ſame means in beſieging *Rome*, therefore, *g* as divers Authors have thought, the true Name of the Roman City was never known, leaſt thereby the Name of their Tutelar God might be deſcryed. Others, namely the *Tyrians*, have tyed faſt their God *Hercules* with a golden chain, thereby the more to ſecure themſelves of his reſidence among them. *h* Others have been called *Dii communes*, namely *Mars Bellona*, and *Victoria*, becauſe in time of War they are not bound to either ſide: but ſometimes they help one ſide, and ſometimes the other. And as they ſuppoſed ſome Gods to have the protection of whole Countries, ſo did they believe that others had the charge of particular men; and that as ſoon as any man was born, two ſpirits did preſently accompany him inviſibly, the one termed the *bonus Genius*, or good Angel. Perſwading him to that which ſhould be good: the other called the *malus Genius*, or evil Angel, tempting to that which ſhould be hurtfull, inſomuch that they thought all the actions

g Sylvius in epiſt. virorum illuſtrium.

h Alex. Gen. dier. l. 6. c. 4.

actions of men to be guided by theſe Angels called *Genii*; ſo that if any misfortune befell a man, they would ſay that the matter was enterpriſed *Diis iratis, id eſt*, our *Genius* being diſpleaſed with us. *Virgil* called theſe bad Angels *Manes*, as it appeareth by that, *Quiſq; ſuos patitur manes, id eſt*, Every man hath his evil Angel, *id eſt*, ſome misfortune. Theſe *Genii* were thought to be a middle eſſence between men and Gods: They are therefore called *Genii*, becauſe they have the tuition of us ſo ſoon as we are *Geniti, i. e.* born, it is moſt certain that old authors uſed *Geno* for *Gigno*, whence *i Tully* ſaith, *ſi mihi filius genitur*, and *k Varro Antequam genat filiquas*, although every place had alſo his *Genius*, as hereafter ſhall appear. This opinion was the more confirmed by a viſion which appeared unto *l Brutus* in *Aſia* near unto the time of his death, for *Brutus* watching upon a certain night in his Pavilion, the candle being near ſpent, ſaw a fierce tragical perſon appear unto him, ſomewhat bigger then a man, and he preſently being of an undaunted ſpirit, demanded whether he were a God or a man? To whom the viſion anſwered, *Brutus*, I am thy evil *Genius*, which haunteth thee, thou ſhalt ſee me at the City *Philippi* again; and the ſame viſion appeared unto him, as he was fighting at *Philippi*: which was the laſt fight that ever he fought. And becauſe *Juno* was wont to be invocated in the time of Child-birth, therefore many have thought that every man hath not his two Angels, but one Angel, and *Juno* to obſerve him, but it is agreed upon by beſt authors, that as the angels or ſpirits which did attend men were termed *Genii*: ſo thoſe which guarded women were termed *Junones*. This *Genius*, as often as he is underſtood for the good or evil *Angell*, which hath charge of a mans body, is painted in form of a man as we read did appear to *Brutus*; though ſome time he is painted as a young boy, ſometimes as an old decrepit man, *m* but alwayes with a crown of plane-tree, which therefore was called *genialis arbor*, in the right hand he held a platter over an alter

i Cic. lib. 2. de orat.

k Varro Rei. Ruſt. li. 1. c. 13

l Plut. in Brut.

m Roſin. ant. lib. 3. cap. 64

garnished with flowers: in the left he held a scourge hanging down. The sacrifice that was performed unto the *Genius* was wine, and flowers: whereupon (as if by wine and fragrant odors, were signified all kind of pleasures) certain proverbial speeches have been occasioned: as when we see a man given much to his pleasure, and dainty feeding, we say he doth *indulgere genio*, *i. e.* pamper or make much of his *Genius*: on the contrary he that is abstemious and debarreth himself of his pleasure, and dainty feeding, is said *defraudare Genium*, to defraud his *Genius*: and *genialis* signifieth jocund or pleasant. *n* It was also the custom after meales to have a cup pass round the table, much like unto our *poculum charitatis*, and it was called *poculum boni Genii*. *o* The *Grecians* had a like custom, whence that cup was called by them, ἀγαθοῦ δαίμονος. But the reason, why they would not sacrifice unto their *Genius* by killing some beast, as they did to their other Gods, was, because they judged it unfit to deprive any creature of his life upon that day, when they first began their life (for this sacrifice was performed yearly by every one upon his birth day) *Horace* notwithstanding doth more then intimate the killing of a young pig in that sacrifice.

n Vid. Erasm. adag.

o Cel. Rhod. lib. 28. cap 6.

——— *cras Genium meró*
Placabis, & porco bimestri. Hor. lib. 3. Od. 17.

The other *Genius* which is supposed to have chief power over high ways and places, being therefore called *Genius loci*, was pictured in form of a Snake, in which form *Virgil* feigned him to have appeared to *Æneas*, when he performed the funeral rites due unto his Father *Anchises*, *Æneid. l. 5.*

p Ser. 1. ——— *Adytis cum lubricus anguis ab imis*
Septem ingens gyros, septena volumnia traxit.

And *Persius*.

Pinge duos angues, pueri, sacer est locus, extra,
Meiite, id est, duos Genios,

Another sort of gods was supposed to have the keeping of

of mens houſes: *p* which they painted in the form of a Dog, becauſe thoſe to whom the charge of houſes is committed ought to reſemble Dogs, that is, to ſeem fierce and angry towards ſtrangers, but gentle and kinde to thoſe of the houſhold. Other properties wherein theſe *Lares* doe reſemble Dogs are recited by *Ovid. Faſt.* 5.

p Franc. Sylv. in orat. pro. Sext. Roſc. Am.

Servat uter q3 domum, domino quo q3 fidus uter q3 eſt,
Compita grata Dio, compita grata cani:
Exagitant & lar, & turba Diania fures,
Pervigilant q3 Lares, pervigilant q3 canes.

They were named *Lares*; and becauſe of the charge, they had over mens houſes, this word *Lar* is ſundry times taken for an houſe it ſelf, as *parvo ſub lare, Horat.* In a little Cottage, *homo incerti laris, id eſt*, a man that hath no houſe to dwell in. *Sen. in Med.* And the cuſtome in ſacrificing unto them, was to eat up all whatſoever was left at the offering, for they thought it an heinous matter to ſend any of that ſacrifice abroad, either among their friends, or the poor: and thereupon when we ſee a glutton leave nothing in the platter, not ſo much as the courteſie-morſel, we ſay *Lari ſacrificat, id eſt*, he ſacrificeth to his houſhold God.

LIB. II. SECT. II.

Of the Roman Prieſts with ſome particular Gods.

Aunus the ancienteſt of all the Kings in *Italy* was the firſt, that brought any forme of Religion into *Italy*. He conſecrated groves, gave names unto Cities, erected Temples, ordained ſacrifices, &c. From whom the Churches, as ſome ſay, were named *Fana*. But after *Faunus*, *Evander* coming out of *Arcadia*, and afterwards being King of *Latium*, he inſtituted, and appointed many other Ceremonies, which before were unknown to the Latines. After him *Æneas* coming from *Troy*, taught many of the *Trojan* Ceremonies: by whoſe examples *Romulus* and *Numa* were incited to adde many other kinds of holy rits, and ſo at length reduced their whole Religion into a certain order, eſpecially *Numa*, who that he might gaine the more credit and authority to his new invented ſuperſtitions, feigned that he had conference about them every night with the goddeſſe *Egeria*. My intent therefore is, to ſpeak firſt of the God, in whoſe honour theſe holy rites were performed, and then to deſcend unto the Prieſts, which were to performe them, ſhewing with all the Ceremonies they uſed in the performance.

Lact. de fall. rel. l. 1. c. 22.

CHAP.

CHAP. 1.

De Pane Lyceo, ſive Juno: de Lupercis & Lupercalibus.

PAN was ſuppoſed to be the God of the ſheep-heards, and is *a* thus deſcribed: he is pictured naked, having hornes in likeneſs of the Sun-beames, a long beard, his face red like the clear ayre, in his breaſt the ſtar *Nebris*, the nether part of his body rough, his feet like a Goat: in one hand he holdeth a pipe, in the other a ſheep-heards crook, and alwayes is imagined to laugh. *b* He was worſhipped firſt in *Arcadia*, and there called the God *Pan Lycæus*, but afterward he was had in great eſteeme at *Rome* *c* and in the honour of him certain ſacrifices, and games called *Lupercalia* were ſolemnized by the *Romanes*, *d* There he took the name *Inuus*, or as ſome ſay *Junus*. Concerning the time, when theſe ſacrifices were to be performed; it was upon the *e* unfortunate dayes of the moneth *February*, which hath his name *â februando*, from purging: whence the feaſt or game is as a purification; though the Latine word ſignifieth as much as a feaſt of wolves, in a memorial that *Romulus* and *Remus* were nurſed by a ſhee-wolfe. This ſeemeth very probable, becauſe the Prieſts, which were called *Luperci* began their courſe at the foot of the mount *Palatine*, called by the *Romans Lupercal, id eſt*, the place, where the wolf nurſed *f Romulus*. The Ceremonies were theſe: the hoaſt (being two Goats) was to be ſlain; and two Noble mens Sons were to be preſent, whoſe foreheads being blooded with the knives of them that had ſlain the Goats, by and by were to be dryed up with wool dipped in milk. Then the young Boyes muſt laugh immediately after their foreheads were dry. That done they cut the goats skins, and made thongs of them, which they took in their hands, and ran with them all about the City ſtark-naked (ſaving they

a Servius in Virg. Ecl. 2.

b Feneſt. de ſacred. cap. 1.

c Feneſt. lib.
d Pomponius Lætus de Sacred cap de Luper.
e Plutarch. in Romulo.

f Plutarch. in Romulo.

they had a cloath before their privities) and so they strock with those thongs all they met in the way. The young wives did never shun them at all, but were well content to be stricken with them; believing it helped them to be with childe, and also to be easily delivered. Moreover it is to be noted, that a Dog was sacrificed at this time, because there is a natural antipathy, or contrariety of nature, between the Dog and the Wolf: whereby *Romulus* thought to testifie his gratefulness unto the Wolf for her paines in nourishing him. The reason why the Priests ran up and down the streets naked, was, because that *Pan* the God of this sacrifice was painted naked. As the feast, so also the place from whence they came, and likewise the Priests had their names *à Lupa*, which signifieth a Wolf. Some Authors have observed three sorts of the *Luperci*, some called *Fabiani*, some *Quintiliani*, from *Fabius* and *Quintilius* their governours: the third sort, which *g Rosinus* affirmeth to have been added in the honour of *Julius Cæsar*, I cannot find according to his quotation in *Suetonius*. But thus much *Suetonius* saith in *h* another place, namely that *Augustus Cæsar*, when he was chief Pontifie did restore these games again, being formerly abolished.

g Rosin. ant. l. 3. c. 2.

h Sueton. in August.

CAP. 2.

De Cerere, & sacris ejus.

CEres otherwise called *Eleusina* was honoured first among the *Græcians*, afterward among the *Romans*, as a Goddess, which first taught men the skill of husbandry.

Prima Ceres ferro mortales vertere terram
Instituit. Virg. Georg.

Whence she is sometimes *metonymicè* taken for corn, as *Credenda Ceres arvis. Ovid.* It is seed time. She is called *Ceres i quasi Geres, á gerendis frugibus*, from bearing fruit: because, as some say, by *Ceres* is understood sometimes

i Cic. lib. 3. de nat. Deor.

sometimes the earth it self; whence also *Δημήτηρ*, being the Greek name of *Ceres* is said *quasi γῆ μήτηρ, i. e.* the earth, which is the common mother of us all. *k* She is painted in the habit of a Matron wearing a Garland of Corn: sometime sorrowful, with a lamp in her hand, as if she were seeking out her daughter *Proserpina* carried by *Pluto* into Hell: and sometime with a handful of Corn or Poppy-seed. Upon the fifth of the Kalends of *April* the Romans were wont to perform sacrifices unto her, which they called *sacra Graca, i. e.* the Grecian sacrifices: as likewise they termed the chief woman which did perform them, *sacerdotem Gracam, i. e.* the Greek Ministress, because they were translated into *Rome* out of *Greece* by *Evander*. The time of their solemnities was at the dawning of the day, and the Priests, which were onely women, ran up and down with lamps in their hands in manner of mad women; into whose Temple none that was guilty of any fault committed, might enter: whose mysteries were to be buried in silence, and by no means to be blabbed abroad. And as it is to be supposed, that was the reason why all wine was forbad in this sacrifice. So that hence *l* we say *Cereri sacrificat*, he sacrifices to *Ceres*, when he makes a feast without wine.

k Rosin. ant. l. 2. c. 11.

l Plautus in Cululatia.

CAP. 30.

De Potitiis, & Pinariis, Herculis sacerdotibus.

Hercules had an Altar erected in the memorial of him near unto *Tiber* by *Evander*, upon occasion of the Herdsmens complaint brought unto *Evander* of him, whom they accused to have slain their chief Herdsman *Cacus*, the History being *m* thus, *Hercules* after his conquest over *Geryon*, brought away with him certain goodly Oxen, and as well to rest himself, as to pasture his Oxen, he laid him down to sleep in a green field near the River *Tiber*: In the mean while a certain Herdsman called *Cacus* happened to come that way, and perceiving

m Serv. Æn. l. 8.

Hercules to be in a ſound ſleep, he ſtole away two of his Oxen, which he hid in a Cave or hollow Rock, pulling them in by the tail backward, thinking that *Hercules* when he ſhould look his Oxen, and ſee the print of their footſteps, would eaſily believe that his Oxen had rather gone out from the Rock than into it, as indeed he did for a time believe: but afterwards by the bellowing of the Oxen within, anſwering their fellows without, *Hercules* entred the Rock, and finding the thief *Cacus* there with his Oxen, he killed him; by reaſon of which murther he was brought before *Evander*: and after a while known to be the *Hercules*, of whom the Propheteſs *Carmenta* had foretold unto *Evander*, that he ſhould be a God: whereupon *Evander* preſently ſaluted him by the name of *Hercules* the Son of *Jupiter*, and in honour of him cauſed an Altar to be built there in that place: upon which yearly was to be offered up an Heifer which had never born yoke; and that this Sacrifice might be had in the more eſteem, two Noblemen well ſtricken in years, and of good repute among the Romans, one of them being called *Potitius*, and the other *Pinarius*, were appointed as the Prieſts to perform theſe Sacrifices; from whom ever after *Hercules* his Prieſts were called *Potitii*, and *Pinarii*. Where by the way we muſt obſerve that *Pinarius* was not the ſirname of this Nobleman, but a name added unto him, intimating his and his ſucceſſors puniſhment, for not coming ſoon enough according to the time appinted by *Hercules*. For as [a] divers writers teſtifie, the entrals of the beaſt were almoſt eaten up by the family of *Potitius*, before *Pinarius* and his family came, and in puniſhment of their negligence *Hercules* enjoyned the *Pinarii* never after to eat of the entrals, giving them this name *Pinarii* at that time, from the Greek word πεινη, ſignifieth hunger.

[a] Ser. Æn. 8.

CHAP.

CAP. 4.
De Fratribus Arvalibus.

THis Colledge or Company of Roman Priests may be Englished the *Arval fraternity*: the number of them being twelve, eleven of them natural brothers, sons to *Acca Laurentia*, *Romulus* his Foster-mother; *o* for which respect *Romulus* yielded himself her adopted son, instituting this Order in the honour of *Ceres* and *Bacchus*, for the plenty of Wine and Corn, unto whom they did offer up certain sacrifices called *Ambarvales hostiæ, quod antequam malterentur ter circum arva ducebantur*, according to that of *Virg. Georg. Terq; novas circum felix eat hostia fruges*, that they being therewith appeased, might the willinger cause the earth to fructifie, and added himself to the former eleven, as the twelfth Priest, or brother to help in the performance of this publick sacrifice. Moreover, beside the performance of this sacrifice, these twelve were appointed *Arbitrators*, or Judges to decide controversies concerning Land-marks, and bounds of the field, from whence they took their name *fratres arvales*. Their sacerdotal ornament was a garland of Wheat bound up with a white ribband, this being, as *p Pliny* writeth, the first Crown or Garland amongst the Romans.

o Feneſt. de Sacerd. c. 3.

Hoſpin. de orig. Monachi c. 10.

p Plin. 17. c. 2.

CAP. 5.
De Sexaginta Curionibus.

AFter that *Romulus* had divided the whole body of the Romans into three Tribes, or Wards, and subdivided those three Wards into thirty Parishes, called *Curiæ*, he ordained out of each *Curia* two Parish-priests or Curates called *Curiones*, or *Flamines Curiales*; which were publickly to offer up sacrifice in the behalf of the people. Neither was every one equally capable of this

honour of Prieſthood, *q* but he was to be at the leaſt fifty years old, of a life unſpotted, and a body unmaimed. And over all theſe there was one which had chief rule, and therefore was called *Curio maximus*, the Biſhop or chief Prelate: and theſe ſacrifices were called *Curionia*. *r* Their ſacrifice being ended, each Pariſh had a feaſt in a common Hall built for that purpoſe: it was called *Domus Curialis*, and ſometimes *Curia*.

q Dion. Hal. l. 2.

r Dion. ibid.

CAP. 6.

De Auguribus, & eorum Collegio.

AMongſt other kinds of fore-tellers, we read of three principally uſed in former time, namely, *Aruſpices*, *Auſpices*, and *Augures*: all which we Engliſh *Southſayers*, though the Latine words do import a main difference, worth our obſervation; all are alluded unto by *Ovid*.

Ovid. triſt. l. 1. Eleg. 2.

Hoc mihi non ovium fibræ tonitruſve ſiniſtri,
Linguave ſervatæ pennave dixit avis.

The *Aruſpices* did divine or foretel things to come, by beholding the entrals of beaſts ſacrificed; whence they had their name, *ab aras inſpiciendo*, from beholding the Altars. The *Auſpices* did foretel things by beholding the flight of birds: ſo that *Auſpices* are ſaid *quaſi aviſpices*, *ab aves aſpiciendo*. The *Augures* did divine from hearing the chatting or the crowing of birds; whence they are called *Augures ab avium garritu*, *from* the chirping and chatting of birds. Theſe two laſt kinds of ſoothſaying have occaſioned theſe and the like phraſes, *bonis avibus*, or *auſpiciis* with good luck, *malis avibus*, *i. e.* with ill luck; and becauſe they would begin *s* nothing *in auſpicio*, *i. e.* without the counſel of the *Augures*, hence *Auſpicari rem* hath been tranſlated, to begin a matter. The Colledge of the *Augures* at *Rome*, was firſt appointed by *u Romulus* himſelf, being very expert in ſoothſaying, there being at the firſt but three, namely one of each Tribe; (The word *Augur* being not taken in his own

s Fr. Sylv. in orat. pro Cicentio.

u Pomp. Lætus cap. de Augur.

own proper sense and signification above mentioned: but generally, by the trope *Synechdoche*, signifying all kinds and sorts of divining whatsoever, whether it were by observing the entrals of beasts, the flying, screeching, and chatting of birds, or thundring or lightning in the Heaven, or marking the rebounding of crums cast unto birds, which kind of divining was called *Tripudium*.) *x Servius Tullius* the sixth Roman King, when he divided *Rome* into four local Tribes, *id est*, Regions, or quarters, then did he add the fourth *Augure*, all of them being elected out of the *Patricii*, or the Nobility of *Rome*. *y* In process of time *Quintus*, and *Canus Egulinus* being chosen *Tribuni plebis*, *i.e.* protectors of the Commons, obtained, that five other *Augures* should be chosen out of the commonalty, and added unto the former four: at which time the Senate decreed, that the Colledge of *Augures* should never exceed the number of nine. *z* Notwithstanding *Silla* being *Dictator*, added six more, insomuch that their Colledge increased to the number of 15, the eldest of which was called *a Magister Collegii*, the Master, or *Rector* of the Colledge. The *Augures* excelled other Priests, in *b* this respect, because if any of them had been convinced of any hainous crime, he did not lose his office, neither was any other subrogated into his room, although the Roman custome was, that if any other Priest had committed any notorious offence, he should presently be discharged of his office, and another chosen in his place. *c* The manner how the *Augur* did observe was this: He sate upon a Castle, or a Tower, the air being clear and fair without clouds or rain, holding a crooked staff (called in Latine *Lituus*) in his hand, where sitting in his soothsaying Robe called *Læna*, and in Greek χλαῖνα ἀπὸ τὸ χλιαίνειν *à calefaciendo*, from heating, because it was well lined within, being guarded on the outside with purple and crimson guards; having his head covered, and his face turned toward the east, so that his back was West-ward, his right-side South-ward, and his left North-ward. Being thus placed,

x Rosin. ant. l. 3. c. 8.

y Rosin. ibid.

z Rosin. ibid.

a Alex. Genealogy. l. 5. c. 19.

b Alex. ibid.

c Pomp. Lætus de Aug.

placed, he quartered out with his crooked staff the heaven into certain *templa*, *id est*, Regions or places, observing in what region the birds did appear: then killing his sacrifice, and offering up certain prayers called *Effata*, he proceeded in manner as followeth. But first, suppose we for our better understanding hereof, that now the *Augures* were to resolve the people, whether the gods would assent that *Numa Pompilius* should be King. The *Augur* having done as above is shewed, his *Lituus* being in his left hand, he reached forth his right hand, putting it upon *Numa Pompilius* his head, using this form of words, *Jupiter pater, si fas sit Numam Pompilium, cujus ego caput teneo, regem Romæ esse, fac uti nobis signa certa ac clara sint inter eos fines quos feci*, i. e. If it be lawful for this *Numa Pompilius*, whose head I hold, to be King of *Rome*, shew some manifest tokens within these regions or quarters which I have described. Then if he observed lucky signs and tokens he presently pronounced *Numa Pompilius* King of *Rome*, if he perceived unlucky tokens, then did he *obnunciare*, or gainsay, and shew that the matter proposed was not pleasing to the gods. Where by the way we must note, that nothing was confirmed by the *Augurs* without the appearance of two lucky tokens one after another; neither was any thing gainsaid by the appearance of the onely evil token. The distinctions of the soothsayings have been taken, some from the event, and thence are they called *prospera*, lucky, or *adversa*, unlucky; some from the manner of appearing, [d] and that was either wished, being called therefore *impetrativa*, or unwished, called *oblativa*; some from the diversity of things which offered themselves in time of divining, and of these were five distinct sorts: the first was by the observing of lightening and thunder from Heaven, the second from the flying and chatting of birds; the third from bread cast to pullets or little chickens; the fourth from four footed beasts, which either should cross the way, or appear in some unaccustomed place; the fifth from those casualties whereby the gods

[d] Serv. Æn. lib. 8.

gods do make their anger appear unto us. Of this sort are those voices which we hear we know not whence (as *e Cadmus* heard, when he overcame the Serpent,) the falling of salt towards us at the table, the shedding of wine upon our cloaths; from which casualties and the like, the *Augures* would pronounce either good fortune or bad to ensue. And these tokens were therefore called *Dira*, because thereby *Dei ira nobis innotescit*, the Gods anger is made known unto us. Now the things that in divining time appeared on the left hand, were commonly tokens of good luck, because the givers right hand in bestowing a benefit is opposite to the receivers left hand. Whence *f sinistrum*, though in humane affairs it signifies as much as unlucky, yet in those holy Rites of divining, *sinistrum* is taken in a contrary sense, as *Avis sinistra*, good luck; *Intonuit lævum*, it hath thundred luckily, we shall have good success; and it is said, *à sinendo*, because the gods thereby do suffer us to proceed in our purposed projects. And therefore *Tully* saith, *lib. 1. de divinatione*, *à sinistra coniceratum & firmum Augurium fieri*: and in the law of the 12. tables it is said, *Ave sinistra populi magister esto*. *g* The *Grecians* from hence in the judgment of *Lipsius* have called the left hand ἀριστερὰν from ἄριστον signifying best.

e Vox subito audita est neque erat cognoscere promptum, Unde, sed audita est. Ovid. Met. l. 3. fab. 1.

f Serv. Ænel. lib. 2.

g Lips. Elect. lib. 2. cap. 2.

CAP. 7.

De Tripudiis & Pullariis.

THis kind of conjecturing is called *auspicium coactum quoniam necesse erat offa objecta cadere frustum expulliore, cum pascitur*. The word *Tripudium* is used by a *syncopation* for *terripudium*, which is as much as *terripavium*, *id est*, a dancing or rebounding of any thing upon the ground; for *pavire* is the same with *ferire*. * Others say *Tripudium quasi teritio pedum*. It is here taken for the divining, or conjecturing of good or evil to come by the rebounding of crumbs cast to chickens in a coop or pen: whence the *Augur* from these pullets or chickens was called

h Cic. de divinat. lib. 1.

* Humbert in l. 6. Ep. fam. Cic.

led *Pullarius, id est*, a Bird-Prophet. *i* The manner in observing was this: as often as by this kind of conjecturing they desire to know the gods pleasure concerning the enterprizing of any matter, early in the morning those that were skilful in this kind of observation, repaired unto the place where the chicken were kept, where silence being commanded, and the coop opened, they cast crumbs of bread to the chicken: now if the chicken either came slowly, or not at all unto the bread, or if they walked up and down by it not touching it, then was it a token that the matter to be enterprized was displeasing unto the gods: but if contrarily the chicken did hastily leap out of the coop, and eat so greedily of the crumbs, that some should fall out of their mouths again, then the *Pullarius*, that is, the *Augur*, pronounced that it was well-pleasing to the gods, and encouraged the enterprizing of what they had intended cheerfully: and this was called *Tripudium solistimum*. This kind of conjecturing may seem to have its original from the *Lycians*, *k* who as often as they desired to foreknow the success of any enterprize, they went unto the fountain dedicated unto *Apollo*, into which they cast baits for the fish: now if the fishes did eat them, it did betide good luck: if otherwise they neglected the baits, then did it betoken some evil event.

i Alex. Gen. dier. l. 1. c. 27.

k Alex. ibid.

CAP. 8.

De Aruspicibus, Aruspicina, & Extispicino.

THis kind of Sooth-sayers, as they were called *Aruspices, ab aras aspiciendo*, from beholding the beast upon the Altar; so were they called *Extispices, ab exta aspiciendo*, from beholding the bowels or entralls of the beast, called in Latine *Exta*. In this kind of sooth-saying the *Aruspex* observed in manner as followeth; *l* first whether the beast to be sacrificed came unto the Altar willingly, without plucking and haling; whether he died without much strugling, or lowd bellowing, at one blow

l Senec. Oed. Act. 2. scen. 2.

or

or many; whether any unlucky object were seen, or heard by them whilst they were sacrificing. Again, after the beast was slain, then would they observe, whether the bowels were of an unnatural colour, whether they were not ulcerous, exsiccate or impostumated: moreover they would divide the bowels into two parts, the one they would call *partem familiarem*, from whence they would fore-tell what should befall themselves and their friends; the other they would call *partem hostilem*, whence they gathered predictions touching their enemies. Hence *Manto* in *m Seneca* describing the entrals of his killed Sacrifice, saith, *Hostile valido robore insurgit latus*, meaning by *hostile latus partem hostilem*. Afterward when the Sacrifice was to be burned, they considered whether the flame of the fire was smoaky, whether the smoak rolled and tumbled in the ayre, whether it were of any continuance or no: for all these were unfortunate tokens, as the contrary did betoken a good and fortunate issue to their designments. These last, which observed the fire and smoak, were called by a more peculiar name *Capnomantes*, smoak-Augures, from the Greek word καπνος signifying smoak, and μαντις *id est*, *vatis*, or a Sooth-sayer. The first instructions that the *Romans* received were from the *Hetrusci*, who (as they themselves say) received their knowledg, from a little boy which they named *Tages*, the history being thus; *n* when the *Hetrusci* were plowing their lands up a sudden up started this *Tages* out of one of the furrows, using divers speeches unto the plow-men: but they being much affrighted at this sudden and strange vision, began with a loud cry to lift up their voices: upon occasion whereof many other people flocked thither, where, he gave many good instructions concerning this kind of Sooth-saying, which were presently recorded in books, and practiled afterward by the *Hetrusci*.

m Oct. Art. 2 scen.

n Cic. de divinat. Indigenae dixere Tagem, qui primus Etrusca Edocuit gentem casus aperire futuros. Ovid. Met. lib. ult.

CAP. 9.
De Flaminibus.

[o] Rosin. ant. l. 3. c. 11.
[p] Rex Anius Rex idem hominum Phœbiq; sacerdos. *Virg.*

THe Mitre or head ornament which these Priests did wear, was called in old time *o Flama*, whence the Priests took their names *Flamines*. The *p* custom amongst the *Grecians*, as likewise afterwards amongst the *Romans*, was, that the King should as well perform ceremonies and holy rights of Religion, as civil businesses. But *Numa Pompilius* perceiving that forrain wars did oftentimes occasion the Kings absence, in somuch that those Religious ceremonies which he himself personally should perform, were of necessity sometimes neglected, hereupon he ordained out of the *Patricii* three Priests to perform that divine service unto *Jupiter*, *Mars*, and *Romulus*, which he himself otherwise ought to have performed, calling the first *Flamen Dialis*, the other *Flamen Martialis*, and the last *Flamen Quirinalis*, from *Romulus* which was often called *Quirinus*.

Sive quod hasta quiris priscis est dicta Sabinis,
Bellicus ut telo venit in astra Deus.
Sive suo regi nomen posuere Quirites,
Seu quia Romanis junxerat ille Cures.

In process of time twelve others chosen from the Commons were added unto these, but with this note of distinction, that the three first were had in great esteem, and were called *Flamines majores*, high Priests; the other of less note, called *Flamines minores*, inferiour Priests; the cheif of all was the *Flamen Dialis*, *Jupiters* high Priest. And whereas every one did wear a certain bonnet in form of a Mitre, which somtimes was called *Pileum*, sometime (by the figure *Synecdoche*) *Apex* (whereas *Apex* doth properly signifie only the top of the bonnet) *q* none might wear *Albo-galerum*, *i. e.* a white Mitre, but only *Jupiters* Priest, and that was to be made of white Sheep-skin, after the Sheep had been sacrificed. Whatsoever malefactor could

[q] Alex. Gen. dier. l. 6. c. 12.

could eſcape unto this Preiſt, he ſhould not be puniſhed that day. None was eligible into this office, but he that was married: neither was it lawful for him to marry twice, but if his wife died *Flaminio abibat, i.e.* he reſigned his ſacerdotal office. To him was permitted a rich robe of ſtate, and a Curule chair; none might fetch fire out of his houſe, unleſs it were to perform ſome Sacrifice therewith; *r* none might barb or pole him but a free-man, and that with brazen ſciſſers. Many other ceremonies there were which concerned this *Flamen*, as likewiſe Time added many other *Flamines*, namely *ſ* every god one; yea ſometimes theſe threeſcore Pariſh-Prieſts which formerly were called *Curiones*, were called *Flamines Curiales*, and divers Emperors after their death had alſo their *Flamines*. *t* Moreover we muſt note that thoſe Prieſts wives were called *Flaminicæ*; Their Miniſters (for they were wont when they went to Sacrifice, to take a boy or a maid with them) *Flaminii*, or *Flaminiæ*: and the chief *Flamens* dwelling houſe was call'd *ædes Flaminia*, or *Flaminia*. But as it ſeemeth probable, *Numa Pompilius*, and ſo the other Kings ſucceeding him, did ſtill reſerve their right and authority in holy matters ſo far, that they would inſtruct other Inferiour Prieſts, yea and ſpecially perform ſome ſpecial Sacrifices themſelves: whereupon after that the Kings authority was abrogated amongſt them, then that theſe Sacrifices might be continued, they choſe a certain Prieſt, which they preferred before the *Flamen Dialis*, but judged him inferior to the *Pontifex maximus*, or Arch-pontifie, and him they called *Rex ſacrificulus*, and *Rex ſacrorum*, the King-Prieſt. To him once every year the Veſtal Nuns repaired, and uſed this form of words, *u Vigilaſne Rex? Vigila.* King art thou awake? awake. For unto him it did belong to bid holy dayes, and to provide all things neceſſary for publick Sacrifices. He was to inſtruct thoſe that ſought unto him, the cauſes of the holy dayes, and tell them what was lawful and unlawful every month; and upon the fifth of the *Ides* of January he Sacrificed a *Ram* to *Janus*.

r Serv. Æn. 7.

ſ Feneſt. de ſacrer. c. 5.

t Alex. Gen. dier. l. 3. c. 12.

u Serv. in Æn. 10.

He was likewiſe wont to offer up a Sacrifice in the *Comitium* or great Hall of juſtice, which being finiſhed, he ran as faſt as he could out of the Market-place without delay. His wife was called *Regina ſacrorum*, the Queen-Prieſteſs, and was wont upon the Kalends of every moneth to Sacrifice a Porker, or a Lamb in her place, in the honour of *Juno*.

CAP. 10.

De Marte, ſive Mavorte, & aliis Palatinis Marti dicatis.

MArs otherwiſe called *Mavors* by the figure *Epenthesis*, as we ſay *Induperator* for *Imperator*, was reputed the God of War, and ſo *Metonymicos* is uſed for War, as *vario Marte pugnatum eſt*, the battel was doubtful; *proprio Marte* by ones own ſtrength and labour. He was the ſon of *Juno* only, without company of her Huſband: for when *Juno* was greatly diſpleaſed with her ſelfe, that *Jupiter* by ſtriking his head, without the company of a woman did bring forth the goddeſs *Minerva*, ſhe by the counſel of the goddeſs *Flora* touched a certain flower in the field of *Olenias*, by vertue whereof ſhe immediately conceived the god *Mars*. This god, by reaſon of his dominion in War, the Romans painted fiery, ſometimes in his Chariot, ſometimes on Horſeback, with a Javelin in one hand, and a Scourge in the other. In old Coyns there was ſometimes the picture of a cock joyned with him, to ſhew the vigilancy and carefulneſſe that Souldiers are to uſe. He was called *x Gradivus á gradiendo*, from marching in battel againſt his enemies. He had a Temple without the City, whence he was called *Extramuranus*. *y* Near unto this Temple, without the gate *Capena*, did lye a ſtone of great note, which upon great droughts the people would bring into the City, and preſently rain would follow; whereupon it was called the Rainſtone, *Lapis manalis, a manando*. *Numa Pompilius* in the honour of *Mars*, ſirnamed *Gradivus*, ordained twelve dancing

x Roſin. ant. l. 2. c. 10.

y Roſin. ibid.

dancing priests, called *Salii á z saliendo* from dancing, which number afterward we find to have been doubled by *Tullus Hostilus*, in the War against *Fidena*, a town of the Sabines. The former twelve being called *Salii Palatini*, from the Palatine Mount, where they did begin their mausk: the order *Collini*, from the Hill where their Chappel stood; *a* and sometimes *Quirinales*: and sometimes *Agonales*: so that the whole Colledge contained 24 Priests. *b* The occasion of their first institution was this; upon a certain time, in the rain of *Numa*, the plague, or some other contagious sickness was very hot among the *Romans*, insomuch, that no Sacrifice, or holy Offering could remove it: at that time a certain brazen Target or Scutcheon, called in Latine *ænea pelta*, or *ancile*, big at both ends, but cut like a half Moon on each side, fell from heaven into *Numa* his hands, with a certain voyce promising all health unto *Rome*, so long as that brazen Target could be kept safe. Whereupon *Mamurius* a cunning workman, by the appoynment of *Numa*, made eleven other *ancilia*, so like the first, that neither could be known from the other (to the intent that if any should be so wicked minded as to steal it, he might fail of his purpose by mistaking one for another.) These 12 Priests had the custody and keeping of them committed to their charge, and in the moneth of *March* every year they apparelled themselves with a parti-coloured Coat, called *tunica versicolor*, girt close to their body with a belt, or sword-girdle, & a brest-plate of hardness, called *æneum tegmen*, upon that, and a robe of estate, called *trabea*, clasped about them upmost of all. Upon their heads they did wear *abices*, *i. e.* Caps *c* much like unto the *Persian* Bonnets, called in Greek κυρβασίαι, or τιάραι. They did somwhat resemble our head peices in War, made close unto the head, with a crest of cloath upon the top, whence some have called them *Galeas*. They being thus aparelled, danced about the *Forum*, or Market-place, and the Capitol, with short swords by their sides, a Javelin in the right hand, and their *ancile* in the other

z Plutarch in Numa.

a Dion. Hal. lib. 2.

b Plutarch in Numa.

c Dion. Hal. lib. 2.

other; using certain Songs, either of the gods, and those they called *Januali*, *Junonii*, & *Minervii*; or of men, and those they called *Axamenta*, because in those Songs they did *axare*, *i. e.* nominate and call upon the names of some well-deserving men; as *Mamurius* which made those eleven Scutcheons, was often called upon in those Songs. Upon their feastival dayes they had excesse of cheer, whence *Horace* hath used *Saliares dapes*, to signifie dainty fare.

d Horat. l. 1. Ode 37.

CAP. 11.

De Fœcialibus, & Patre patrato.

These *Fœciales* were Officers at Arms, or Heraulds, to denounce war, or proclaim peace, appointed thereunto at first *e* by *Numa Pompilius*. *f* The cheif part of their Office was to dissuade the Romans from molesting any confederate Nation, with unjust War: and if any confederate Nation did offer injury unto the Roman people, then did these *Fœciales* goe as Embassadors unto them, perswading and exhorting them to yeild the Romans their right: but if they continued thirty dayes obstinate, refusing to yeild to that which should be just and right, then did they presently denounce War against them, casting forth a dart in token thereof; which denunciation was *g* called *clarigatio*, *à clara voce qua utebantur Fœciales*. Others are of opinion, that whensoever War was denounced, this Herald at Armes should *h* turn loose a Ram unto their enemies borders; signifying thereby, that their fields should shortly become pasture for the Romans: from which custom we say of one that challengeth another into the field, *Arietem emisit*. Again, if the *Imperator*, or Lord-general, had done ought against his Oath, these *Fœciales* by their Sacrifice did avert the wrath of the gods from him. The cheifest of them was called *Pater-patratus*, a perfect Father: for he only could be *Pater-patratus*, which had both children of his own, and his Father also alive. They were called *Fœciales*,

e Pomp. Lætus de sacer.

f Dion. Hal. lib. 2.

g Serv. Æn l. 2.

h Vid. Eras. Adag.

Fœciales, *à fœdere faciendo*, from making a league or peace between Nations. This league which we in Latine do call *Fœdus*, the Romans in old time *i* did call *Fides*, as *Ennius* and *Pighius* witness; whence these *Fœciales* were termed also *Fidei Flamines*.

i Pighius Septim. l. 1.

CAP. 12.

De Duumviris, & Decemviris, & Quindecemviris, Sacris faciendis, item de Sibyllis.

THis Priesthood had its first institution from *Tarquinius Superbus*, whose office was as well to expound, as to keep the Oracles of those ten Prophetesses so famous throughout the world, called *Sibyllæ*. Concerning whom *k* *Munster* hath these words: In times past there came a strange woman to *Tarquinius* the King, offering nine books full of the *Sibylline* Oracles to be sold: but *Tarquinius* thinking the books too dear, refused to buy them; the woman departing, burned three of these books, and came the second time unto *Tarquinius*, demanding as much for those six books, as formerly she had done for the nine; *Tarquinius* began to deride her, whereat the woman departed, and burned three more, returning again unto *Tarquinius*, and asking as much for the three left, as she asked at first for all nine. Then began *Tarquinius* more seriously to bethink himself thereof, and sent for his *Augures*, asking counsel and advice of them. And they understood, by certain signes observed, that the King had refused some special goodness sent from the gods; and for the books that remained they advised that the woman should have what she asked; As soon as the woman had delivered her books, she presently vanished, and was never seen again; only warning them, to keep the books as safe as possibly they could. For the safe keeping of these, *Tarquinius* chose two of the Noble men, or *Patricii*, calling them *Duumviri*, appointing them, as well by study to expound, as with

k Munst. in sua Cosmog. l. 2.

with care to keep those Oracles. In process of time, the people obtained, that ten should be appointed to this office, *l* five of them being chosen out of the Commons, and five out of the Nobles: and then they were called the *Decemviri*. Afterward by *L. Sylla*, as it is thought, five more were added, so that they were then called the *Quindecimviri*: nay the number was increased by *Sylla* unto forty *m* as *Servius* thinketh, but still called by the name of *Quindecimviri*. Of these women that had the spirit of Prophesie, ten were very famous: the first was called *Persica*, the second *Libyca*, the third *Delphyca*, the fourth *Cumæa*, the fifth *Erythræa*, the sixth *Samia*, the seventh *Cumana*, the eight *Hellespontia*, the ninth *Phrygia*, the tenth *Tiburtina*: They all prophesied of the Incarnation of Christ. The place where these books were kept, was within the Capitol under ground in a Chest of stone, where they remained safe, untill the burning of the Capitol, at which time they also were burned. Notwithstanding many of the Prophesies have been known, partly by tradition, and partly being taken out of other copies in other Countries. One of the Prophesies concerning our Saviour Christ, was uttered by *Sibylla Delphica* in manner as followeth: *Nascetur Propheta absq; matris coitu ex utero ejus*, that is, There shall be a Prophet born without any copulation of the Mother, even out of her womb. It was spoken at *Delphos*. All their Prophesies were of that certainty, that when we would averre any thing to be undoubtedly true, we use to say, it is *Sibyllæ folium*, as true as *Sibylla's* Oracles. The *Cumæa Sibylla* did write her Oracles at the mouth or entrance of her Cave in leaves of trees, which the fiercenesse of the wind did oftentimes so scatter, that they could hardly be brought in order again: insomuch that when we would shew the great difficulty of bringing things in order, we may use *o Politian* his words, *Laboriosius est quam Sibyllæ folia colligere*, it is easier to gather *Sabylla's* leaves. This name *Sibylla* is not a proper name, but an appellative,

l Fenest. de sacerd. c. 13.

m Serv. Æn. l. b. 6.

n Munst. in sua Cosmog. lib.

Credite me vobis folium recitare Sybilla.

o Epist. l. 2. lib. 1.

tive, common to all women endowed with the ſpirit of Prophecy, taking their denomination from *p* θεὸς, which is in the *Æolick* dialect the ſame that Θεὸς, *i. e.* God, and βελὴ, *id eſt*, Counſel, becauſe they did open and declare the Counſel and determination of God unto the people. It appertained alſo unto theſe *Quindecemviri* above mentioned, to ſee that Sacrifice, and divine ſervice, that ſupplications, and proceſſions, expiations, and all ceremonial Rites were duely performed.

p Serv. Æn. l. 6. θεὸς enim Deos, non Θεὸς, & conſilium non βελὴν, ſed βουλὴν, appellabant. Æolico genere ſermonis. Lact. de falſa religione. l. 1. c. 20.

CAP. 13.

De Bona Dea, & Sacris ejus.

THis Goddeſs which is ſo famous by the name of *Bona dea*, is the Globe of the Earth: which is therefore termed *Bona dea*, the good Goddeſs, becauſe we reap ſo many good things from the Earth. She is called alſo *Ops*, the helping Goddeſs, *ab ope*, from help, becauſe by her help we live. She is called *Fatua*, and *Fauna*, i.e. the Goddeſs of ſpeech, becauſe young children do never ſpeak untill they are able to go, and ſo have touched the earth. The *Grecians* called her γυναικεῖα θεὰ the Female Goddeſs, becauſe that no Male might be admitted to her Sacrifices; nay the very pictures of men were at that time to be covered. The inner room where her Sacrifices were, was called τὸ γυναικεῶν the place for womens aſſemblies. *q* Thoſe that were chief in thoſe Sacrifices, were the Veſtal Nuns. This good Goddeſs was ſuppoſed to be the wife of *Faunus*, and upon a time to have been taken drunk with Wine by him: for which fault, *Faunus* was ſaid to have beaten her to death with rods of Myrtle-tree; but afterward, being ſorry for that he had done, in amends he made her a Goddeſs, and as it were ever after deteſting the Mirtle-tree, he hallowing all other herbs and flowers to be uſed in theſe Sacrifices, forbad the myrtle-tree. Some ſay ſhe was ſo chaſt, that ſhe was never ſeen by any man but by her husband; and in reſpect of

q Cic. orat. de Aruſp. reſponſis.

her chaſtity, the Myrtle-tree is forbid, becauſe it was conſecrated to *Venus*: but whereas in this Sacrifice they uſed Wine, they called it not by the name of Wine, but Milk or Honey; *r* whence they called the veſſel wherein the Wine was put *Amphoram mellariam, i. e.* the Honey veſſel. This ſacrifice became very famous by reaſon of *Clodius*, who being in love with *Pompeia*, *Julius Cæſars* Wife, came unto theſe Sacrifices in womens apparrel, and was found out by *Aurelia*, *Julius Cæſars* mother. This *Clodius* became ſo infamous for this, and other his adulterous pranks, that he occaſioned a common Proverb amongſt the Romans, *Clodius accuſat Mœchos*, anſwerable to which our Engliſh Proverb is, One Theif accuſeth another.

r Alex. Gen. dier. l. 6. c. 8.

CAP. 14.

De Cibelle, & ſacerdotibus ejus.

THe Goddeſs *Cibile*, or rather *Cibelle*, was in her infancy expoſed unto wild beaſts, upon the hill *Cybellus*; where ſhe being nouriſhed by the wild beaſts, afterward became a woman of admirable beauty, and being found by a Shepheards wife, was brought up by her as her own child, and called *Cybelle*, from the hill *Cybellus*. She excelled in natural gifts, and was the firſt that uſed a Taber and Pipe, and Cimbals among the Greeks. Moreover ſhe tenderly loved Children, and therefore was called *magna mater*: ſhe alſo called *mater deorum*, the mother of the Gods.

Ipſa deûm fertur genetrix Berechynthia. Virg.

She was called *Rhea*, *à ῥέω*, to flow, becauſe ſhe doth flow and abound with all kind of goodneſs. She was alſo named *Peſſinuntia*, from the City *Peſſinus* a Mart town in *Phrygia*, where ſhe had a Temple. Moreover ſhe was called *Berechyntia*, from the hill *Berechynthus* in *Phrygia*; where ſhe was worſhipped. Her Prieſts were called *Galli*, and their chief Governour *Archi-Gallus*; they took their name from a certain river in *Phrygia*, called *Gallus*; of which

s Pomp. Læt. de ſacerd.

which whoſoever drank, he became ſo mad, that he would preſently geld himſelf, (as in truth all her Prieſts were enjoyned to geld themſelves with a fiſh ſhell) the original of which cuſtome is rendred thus: *Cibelle* loved a young man of *Phrygia* called *Atys*, and him ſhe appointed chief over-ſeer for her Sacrifice: upon condition that he would keep himſelf chaſt perpetually: but he not long after deflowred a Nymph, for which fact *Cibelle* bereft him of his wits and underſtanding, ſo that he in his madneſs did geld himſelf, and would have killed himſelf alſo, *t* had not the Gods in their commiſeration towards him, turned him into a Pine-tree. In remembrance of him ever after, her Prieſts were gelded. Every year the *Prætors* did Sacrifice unto this Goddeſs. But the performance of the holy and religious rites at that time did belong unto a *Phrygian* man and *Phrygian* woman, choſen for that purpoſe: Which according to the manner of their Country being apparelled with a party-coloured garment, called in Latine *Syntheſis*, or *amictus variegatus*, and carrying the picture of their Goddeſs about with them in the ſtreets, they ſtruck their breaſts with their hands, keeping tune with the Tabers, Pipes, and Cimbals, which other people following plaid upon. The Prieſts were alſo called *Corybantes*, from one *Corybantus*, which was one of her firſt attendants; and hereupon we call the Cymbal *æra Corabantia*. In this manner dancing about the ſtreets, they begged money of the people whom they met: and hence were they named *Cibelle* her collectors, or her *circulatores*, *id eſt*, Juglers. Some called them μητραγυρτῆ from μήτηρ which in this place ſignifieth *Cybelle*, called the great Mother, and ἀγύρτης a beggar or gatherer of alms. *u* Others have called them *Mitricia*: But by what name ſoever they were called, the place was ſo infamous by reaſon of their drunkenneſs, and incivility uſed at theſe times, that when they would point out a notorious naughty fellow, they would call him *circulatorem Cybelleinum*, *Cybelle*

t Cibelius *Atys* exuit hæc hominem truncoq; indutum illo. *Ov. Met.*

u Roſin. ant. l. 3. c. 2.

belle her Jugler. Neither was it lawful for any free-born to undertake that office.

CAP. 15.

De Collegio Pontificum, & Pontifice Maximo.

THis word *Pontifex* is commonly tranſlated a Biſhop or Prelate, being called *Pontifices* in Latine, as alſo Pontifies in Engliſh, from one part of their office, which was to have the overſight of a great wooden bridge, called in Latine *Pons ſublicius*; being ſo great that Carts and Wains might paſs over it, having no Arches to uphold it, but only great piles and Poſts of wood: *x* and that which is moſt remarkable in it, was that it was joyned together only with wooden pins without any iron at all. Others are of opinion, that they were termed *Pontifices quaſi potifices*, from *potis* and *facio*, of which opinion *Lucan* ſeemeth to be, according to that, *Pontifices ſacri quibus eſt commiſſa poteſtas*. Concerning the *y* number of them, only four were appointed by *Numa*, all which then, were to be choſen out of the *Patricii*: afterward four more were added out of the Commons. Theſe were called *Pontifices majores*, or chief Pontifies, to diſtinguiſh them from ſeven other, which afterward *Sylla* added, and *z* called them *Pontifices minores*, inferiour Pontifies. The whole Company of them was called the Colledge of Pontifies. This colledge is priviledged from all allegiance, being not bound to render account of their doings either to the Senate or Commonalty. They were to determine all queſtions concerning Religion, as well between their Prieſts as between private men: they had authority to puniſh any inferiour Prieſt, if he either detracted or added unto thoſe Religious Rites which were preſcribed him. They had their great Pontifie, whom they called *Pontificem Maximum*. Theſe Pontifies were wont to exceed in their diet, inſomuch that when the *Romans* would ſhew the greatneſs of a feaſt,

x Plutarch in Numa.

y Feneſt de ſacerd.

z Roſin. ant. l. 3. c. 22.

feaſt, they would ſay it was *Pontifica cæna*, *i.e.* according to our Engliſh phraſe, A feaſt for an Abbot. *Cæna adjicialis* is taken for the ſame. *a Lipſius* in the expoſition of the latter phraſe taxeth the Printers negligence, and is of opinion, that it ſhould rather be Printed, *Cæna aditialis*, underſtanding hereby a ſolemn feaſt made by Magiſtrates *in aditu honoris*, at their entrance into their office, and at their day of inauguration.

a Lib. 4. de magn. Rom. c. 9.

CAP. 16.
De Epulonibus.

THe Pontifies in old time appointed three men, whom they called *b Trium virοs Epulonum*, (from *Epulum* a feaſt) to have the overſight of the feaſts made at Sacrifices; afterward by reaſon of two twice added, they were called firſt *Quinque-viri*, and at length, *Septem-viri Epulonum*.

b Lazius de Repub. Rom. l. 3. cap.

CAP. 17.
De Titiis.

ANother ſort of religious men there were, which lived in the Suburbs of the City, and practiſed ſooth-ſaying; they were called *c Titii* from the name of the birds which they obſerved: which in latine were called *Titi*

c Pancirol. l. rerum. deperdit. cap. de mole Hadriani.

CAP. 18.
De Virginibus Veſtalibus.

NEar unto *Caſtors* Temple ſtood the Religious Houſe or Nunnery, dedicated to the Goddeſs *Veſta*: where at the firſt were four, after ſix Virgins, or Votaries elected, whoſe office was chiefly to keep the Sacred fire; the extinction whereof proved ominous, and did portend ſome evil event ſhortly to happen. And therefore for their negligence herein, as for all other ſmall faults, they being had into a dark corner, ſtripped naked, and a cur-

curtain drawn half way over them, the chief Pontifie ſcourged them: neither was it lawful to kindle the fire once put out, with any other fire, but from the Sunbeams, for which purpoſe they had certain inſtruments named [c] σκαφεῖα, which were formed in the manner of a *Pyramis*, but hollow; ſo that the beames being collected within the circumference, and meeting in the *vertex*, did eaſily kindle any combuſtible matter put into it; but chiefly if the matter were of black colour; becauſe, as Philoſophy teacheth, a dark colour doth congregate, or collect the beames, whereas whiteneſs doth diſperſe them. A ſecond part of their office, was to work reconciliation between parties offended, as appeareth by [d] *Suetonius*, where we may read, that by their interceſſion *Sylla* was reconciled to *Cæſar*. They were choſen into this place between the ſixth and the eleventh year of their age: and they were to remain in this Nunnery thirty years ſpace, ten yeares to learn their ceremonies, and miſteries, ten years to exerciſe them, and ten yeares to inſtruct others: within which ſpace if they had ſuffered their bodies to be defiled, they were to undergo that fearfull puniſhment * afore mentioned. But theſe thirty yeares being expired, marriage was lawful for them; ſo that they laid aſide their Scepters, their Fillits, and other their Sacerdotal Ornaments. Notwithſtanding thoſe which did marry, in the end died fearful deaths: whereupon they choſe rather to abſtain commonly. The Romans had them in great honour, ſo that they never walked abroad, but with an Iron Scepter in their hands, and whatſoever malefactor met them (if the Nun would take her oath it was by chance) he eſcaped puniſhment. They were named *Veſtals* from their Goddeſs *Veſta*, which word (as [e] *Munſter* writeth) is derived from the Hebrew *Radix* ſignifying fire. The eldeſt was called *Maxima Veſtalis Virgo*, i. e. the Lady Prioreſs, or cheif Governeſs.

[c] Plutarch. in Numa.

[d] Suet. in Julio.

* Vid. ſup. p. 14.

[e] Munſt. in ſua Coſmog. l. 1. c. 9.

CAP.

CAP. 19.

De veterum sacrificiis, & ritu sacrificandi.

WHatsoever was burnt or offered up unto the Gods upon an Altar, it had the name of a Sacrifice: and sometimes it was called *victima, quod vincta ad aras stabat*, because the beast to be Sacrificed stood bound unto the Altar; sometimes t *Hostia*, from an absolute verb *Hostio*, which is to strike, because certain under-officers called in Latine *Popæ* (standing by the Altars, all their upperpart naked, and a Laurel garland upon their head) did *Hostiare victimam*, i. e. strike down and kill the Sacrifice. Others are of opinion, that this name *Hostia* is taken from *Hostis* an enemy, according to that of *Ovid*, *Hostibus à domitis hostia nomen habet*; because either before War, to procure the Gods favour, or after War, in token of thankfulness, they did *hostiam ferire*, i. e. offer up the Sacrifice. The second difference of Sacrifices hath been occasioned in respect of the time, and so they have been called *præcidaneæ*, or *succidaneæ*, *quasi præcedaneæ & succedaneæ*. Those Sacrifices were offered up the day before any solemn Sacrifice, were called *præcidaneæ hostiæ* fore-Sacrifices, as we English *præcursorem*, a fore-runner: which fore-Sacrifices, if by any token they found unlucky, then would they offer up a second Sacrifice, which they termed *hostiam succidaneam*; and because these second Sacrifices were to be offered only instead of the other, when they were unlucky or faulty, hence hath *Platus* used this speech, *meum tergum stultitiæ tuæ subdes succidaneum*? Must I be whipped for thy fault? The manner of Sacrificing was as followeth; some certain dayes before any Sacrifice was to be performed, the Priest was wont to wash his whole body, *f* especially his hands and feet, which if he had not washed, the Sacrifice was accounted polluted: and alluding unto this custom, we say, a man doth

f Vid. Eras. Adag.

doth *Accedere ad remillatis manibus*, or *illotis pedibus*, as often as he enterpriſeth any buſineſs without due reverence or preparation thereunto.

Μηδ' ἐξαπὸς δ' ἐπὶ λείβῃ ἀϋδοντα δέπαϊον
Κερσὶν ἀνίπτοισιν. Heſiod. ἔργων καὶ ἡμερ.

Moreover, the Prieſt was to abſtain from his Marriage-bed, as likewiſe from divers kinds of meats, and at the time of his going to Sacrifices, either himſelf, or ſome inferiour Sexton going before him with a rod or wand in his hand (called *commentaculum*) *g* uſed this form of words unto the people, *Hoc age*, attend this you are about: which cuſtom ſeemeth to have had its original from the *Grecians*; for before the time of Sacrifice, the *Grecian* Prieſt uſed almoſt the like ſpeech unto his people, as τὶς τί δῆ, *i. e.* who is here? the people anſwered πολλοὶ καγαθοὶ, *i. e.* many men and good. After this preparation, then did the Prieſt, laying his hands upon the Altar, reherſe certain Prayers *h* unto the God *Janus*, and the goddeſs *Veſta*, becauſe the Romans were perſwaded, that without their interceſſion, they might not have acceſs unto the other Gods: his prayer being ended, then did he lay *i* upon the beaſts head a little Corn, together with a Cake made of Meal and Salt, called in Latine *k Mola*, *k Mola erat far toſtum, ſale aſperſum*. From this ceremony the act of Sacrificing hath been termed *Immolatio*. After this the Sooth-ſayer drank Wine out of an earthen or wooden Chalice, called in Latine *Sipulum*, or *Simpuvium*. It was in faſhion much like our Ewres, when we pour water into the Baſon: This Chalice was afterward carried about to all the people, that they alſo might *libare*, *i. e.* lightly taſt thereof, which Rite hath been called *Libatio*. Now every one having taſted thereof, the reſt of the Wine, with Frankincenſe mixt in it, was to be poured upon the beaſts head, *m* between the horns, one crying out with a loud voice, *Macta eſt hoſtia*, i.e. *magis aucta*, more increaſed and made more pleaſing unto the Gods; as *Virgil* ſaith *Macte nova virtute*

g Plutarch. Numa.

h Serv. Acc. lib. 1.

i Pancirol. lib. rerum. deperdit. c. de ſale Ammoniaco.

k Textor in ſua officina, Sparge falſa collata aurorum mola. Sen. Oedip. Act. 2. ſcen. 2.

l Pancir. lib. rerum. deperdit. c. de Ammoniaco ſale.

m Media inter cornua fundit Virg. Æneid.

virtute puer, i. e. O good child which increaſeſt in vertue. And hence, even from this term, we may conjecture, that the word *Mactо*, which ſignifieth to kill, and ſometimes to Sacrifice, hath had its original, becauſe they did immediately after that voice, *mactare hoſtiam*, that is, ſlay the Sacrifice; and that was done in this manner; *n* Firſt the Prieſt did pluck off ſome of the beaſts hairs between the horns, and caſt them into the fire, calling them his *prima libamina*, i. e. his firſt offerings: Then did he, turning his face towards the Eaſt, draw a long crooked knife upon the beaſts back, commanding his underofficers, which I called *Popæ* (others *Cultarii*, from their knife; *Victimarii*, from the hoaſt; and *Agones*, becauſe they ſtanding ready to give the ſtroak, often uſed this word *Agon*, for *Agone*, i. e. Muſt I to my work?) to kill the beaſt. The other people ſtanding by, ſome did with veſſels ſave the blood, others did flea or skin the beaſt, others waſhed it. Anon, ſome Soothſayer or Prieſt did obſerve the entrails, turning and winding them with a knife, which was called *Seceſpita à ſecando*: for he might not touch them with his hand, they conceiting, that if the Sacrifice had proved polluted, his hand would then have periſhed. Now after the Sooth-ſayer or Prieſt had ſufficiently turned the entrails, and found no ill token therein, then did thoſe *Popæ* or Church-butchers, cut off from every bowel ſome portion, which after they had rolled in barly meal, they ſent it in baskets to the Prieſts, and the Prieſts taking it up into a broad charger or platter, called *diſcus*, or *lanx*, laid it upon the Altar, and burnt it, and *o* this was properly termed *litare* or *reddere*, i. e. to Satisfie by Sacrifice, or to pay the Sacrifice which was owing unto the Gods. After that the portion laid out for the Gods had been burnt, then did all the people repair unto a common feaſt; where, as they were eating, they ſung Hymns and Songs in the praiſe of their Gods, and playing on Cimbals, they danced about the Altars, intimating thereby, that there was no part of their body,

n Roſin. ant. l. 3. c. 3.

o Joac. Camerar. pro Flac.

but ſhould be employed in the ſervice of their gods. Now until all their Ceremonies and Miſteryes were finiſhed, it was not lawful for any to taſt of this feaſt: inſomuch that we ſince have uſed to check a glutton, or greedy-gut which cannot abſtain from his meat till grace be ſaid, in this manner, *Sacra haud immolata devorat.*

CAP. 20.

De Nuptiis, & nuptiarum renunciatione.

SEeing that Marriages and Burials have ſuch dependance upon the Prieſts, it will not be amiſs to conclude this Section with two Chapters, briefly opening the Ceremonies of both. Before we come to the ſolemn Ceremonies uſed by the *Romans* in their Marriages, we will firſt ſhew the manner of their contracts, which were called by the *Romans* a *Sponſalia à ſpondendo*, becauſe in their contracts each did promiſe other to live as man and wife. Now the manner of contracting was commonly thus: They had for the greater ſecurity, writ down the form of the contract upon tables of Record, as appeareth by *Juvenal*, Sat. 6.

[a] Salmuth. in Pancirol. l. rerum deperdit. cap. de nuptiis.

Si tibi legitimis pactam, junctámq; tabellis
Non es amaturus [illegible]

These tables were alſo ſealed with the ſignets of certain Witneſſes there preſent, who were termed from their act of ſealing, *Signatores*. Moreover, before they would begin the Ceremonies of their contract, the man procured a Soothſayer, and the woman another, with whom firſt they would conſult. Whence *Juvenal*, Sat. 10.

——Veniet cum ſignatoribus auſpex.

The token or ſign which theſe Soothſayers in time of obſerving accounted moſt fortunate was a Crow: [b] *Ea enim cornicum ſocietas eſt, ut ex duobus ſociis altera extincta, vidua altera perpetuo maneat.* The man alſo gave in token of good will a Ring unto the woman, which ſhe was to wear upon the next finger unto the little finger of the left hand,

Alex. Gen. l. c. 2.

hand, *c* becauſe unto that finger alone, proceedeth a certain artery from the heart. The word *Nuptiæ*, which ſignifieth marriage, had its derivation *à nubo*, *d* which verb in old time ſignified to cover: the cuſtom being, that the woman ſhould be brought unto her husband with a *e* yellow vail (called *Flammeum*) caſt over her face. Again, becauſe of the good ſucceſs that *Romulus* and his followers, had in the violent taking away of the *Sabine* women, *f* they continued a cuſtome, that the man ſhould come and take away his wife by a ſeeming violence, from the lap or boſome of her Mother, or next kin. She being thus taken away, her husband did diſſever and divide the hair of her head with the top of a ſpear, wherewith ſome Fencer formerly had been killed. This ſpear was called by them *Haſta cœlibaris*, *g* and the Ceremony did betoken, that nothing ſhould diſ-joyn them but ſuch a ſpear, or ſuch like violence. The next day after the Marriage, a ſolemn feaſt was held, where all the Bride-mans and Bride-womans friends met to make merry; this feaſt they called *Repotia*. We muſt note, that *h* that three manner of wayes a woman became a mans lawful wife: *Uſu*, *Confarreatione*, *Coemptione*. A woman became a mans lawwife, *Uſu*, *i. e.* by preſcription or long poſſeſſion, if that ſhe were wed with the conſent of her overſeers, and ſo did live with the man, as with her lawful husband, a whole yeares ſpace, *nullo interrupto uſu*, i. e. ſhe being not abſent from him three nights in the whole yeare: and ſome have thought, that the counterfeited violence in taking away the Maid from her friends, was uſed onely in this kind of marriage. A woman became a mans wife *confarreationе*, i. e. by certain ſolemnities uſed before a Pontifie, or chief Biſhop, when the woman was given unto the man, uſing a ſet form of words, ten Witneſſes being preſent, and a ſolemn Sacrifice being offered, at which the couple married ſhould eat of the ſame barley cake which formerly had been uſed in the Sacrifice. Which Sacrifice was termed, *á farre*, *confarreatio*; and the marriage

c Aul. Gel.

d Roſin ant. l. 5. 37.

e Plin. l. 21. c. 8

f Sig. de jur Rom. l. 1. c. 9

g Salmuth. in Pancirol. lib. rerū deperdit. cap. de nuptiis.

h Boeth. Topicor. 2. vid. Cœl. Rhod. l. 28. c. 17.

i Sig. de jur. Rom. l. 1. c. 9.

k Cic. orat. pro Muræn.

it ſelf *Farratia*, k and ſometimes *Sacra*, ſimply; the diſſolution of this kind of marriage *Diffarreatio*. A woman became a mans wife, *Coemptione*, i. e. by buying and ſelling, when the woman did under a feigned form of ſale buy her husband, by giving him a peice of coyn. *Veteri Romanorum lege, nubentes mulieres tres ad virum aſſes ferre ſolebant: atq; unum quidem, quem in manu tenebant, tanquam emendi cauſa marito dare.* l To theſe three ſome teach, that a fourth ſort of marriage was in uſe among the *Romans*; Namely, when a woman became a mans wife, *Sortitione*, by a kind of Lottery: and of this they ſay m *Sueton* ſpeaketh. n In that kind of marriage which was *per Coemptionem*, the man was not named by his proper name, nor the woman by hers, but the man was named *Caius*, and the woman *Caia*, in the memory of the chaſt and happy marriage of *Caia Cæcilia*, wife to *Tarquinius Priſcus*; from whence ſprang a cuſtom among them, that the new married wife, when ſhe was brought home unto her husbands houſe, was to uſe this Proverb, *Ubi tu Caius, ibi ego Caia*, by which word ſhe ſignified, that ſhe was now owner of her husbands goods, as well as himſelf: and therefore *Eraſmus* hath expounded that ſaying by theſe words, *Ut tu dominus, ita ego domina*; o And ſhe that was thus married *per coemptionem*, was properly called *Mater-familias*. p If any of theſe Ceremonies were omitted, then was the marriage termed *Nuptiæ innuptæ*, in which ſenſe we call our enemies gifts no gifts Ἐχθρῶν δῶρα δῶρα. Theſe ceremonies being ended, towards night the woman was brought home to her husbands houſe with five Torches, ſignifying thereby the need which married perſons have of five Gods, or Goddeſſes, *i. e. Jupiter, Juno, Venus, Suadela*, and *Diana*, who oftentimes is called *Lucina*, the reaſon of the name being rendred by *Ovid*:

——*Dedit hæc tibi nomina lucus,*
Aut quia principium tu Dea Lucis habes.

There are of opinion, who think that the uſe of theſe Torches

Sig. de jur. Rom. l. 1. c. 5.

m Suet. in Tib. c. 35.
n Cic. orat. pro. Muræn. Ir. Fr. Syl. Ibidem.

o Cœl. Rhod. l. 28. c. 17.
p Hiero. Ferarius in Philippic. orat.

Torches was not only to give light, but to repreſent the element of fire: for no marriages were thought happy, which were not contracted *Sacramento ignis & aquæ*; for which reaſon the cuſtome likewiſe was to beſprinkle the new married woman with water; yea, they did both in the time of their contract touch water and fire provided for that purpoſe. The ſignification of this ceremony, ſome think to be thus; The fire, becauſe it is an active element to repreſent the man; The water, becauſe it is paſſive, to repreſent the woman. Others ſay, that in the community of theſe two elements, was intimated the community between man and wife, of all other their goods and poſſeſſions, which was more fully declared in that fore-quoted Proverb, uſed by the wife, *Ubi tu Caius, ibi ego Caia.* The matter whereof theſe Torches were made, was a certain tree, from which a pitchy liquor did iſſue: it was called *Teda*, and thence have the Poets figuratively called both the Torches and the Wedding it ſelf *Tedas.* When the woman had been thus brought to the door, then did ſhe anoynt the poſts of the door with oyle,[q] from which ceremony the wife was called *uxor, quaſi unxor.* This ceremony of anointing being ended, the Brideman did lift her over the threſhold, and ſo carried her in by a ſeeming force, becauſe in modeſty ſhe would not ſeem to go without violence into that place, where ſhe ſhould loſe her Maiden-head. At her carrying in, all the company did cry out with a loud voice, *Talaſſio, Talaſſio*, for which cuſtom,[r] *Plutarch* alleadgeth many occaſions; this being one. Among thoſe who raviſhed the daughters of the *Sabines*, there were found ſome of the meaner and poorer ſort, carrying away one of the faireſt women; which being known, certain of the Citizens would have taken her from them, but they began to cry out, that they carried her to *talaſſius*, a man well beloved among the Romans; at which naming of *Talaſſius* they ſuffered her to be carried away, themſelves accompanying her, and often crying *Talaſſio, Talaſſio,*

Pancirol. l b. rerum. deperdit. cap. de Nuptiis.

[q] Serv. Æn. l. 4.

[r] Plutar. vir. Pompeii.

From

From whence it hath been continued a cuſtom among the Romans, ever at their marriages to ſing *Talaſſio*, *Talaſſio*, as the Greeks did *Hymen*, *Hymen*. From this cuſtom of leading or bringing home of the new married Bride, cometh that Comical phraſe, *Ducere uxorem*, to marry a Wife. She being thus brought home, received the keys of her husbands houſe, whereby was intimated, that the cuſtody of all things in the houſe, was then committed unto her. ſ The marriage bed was called *Genialis lectus*, as we may ſuppoſe, *quaſi Genitalis*. t Sometimes it was called, *Lectus adverſus*, *quod hunc lectulum religioſe ſervari mos fuit*, *& in atrio collocari januæ ex adverſo*, i. e. they placed this bed in the Court, directly oppoſite to their gate, keeping it as ſome religious monument or pledge of matrimony. The next day after the marriage, the Bride-woman received gifts of her friends, which the Lawyers terme *Nuptialia dona*. u But *Cicero* expoundeth theſe *Dona Nuptialia*, to be certain tokens, which the husband ſent to his wife before the betrothing. If after the marriage any diſcontent hath faln out between the man and his wife, * then did they both repair to a certain Chappel, built in the honour of a certain goddeſs, called *Dea viri-placa*, *à viris placandis*. Whence after they had been a while there, they returned friends. We have thus ſeen the Rites and Ceremonies which the Romans uſed in their contracts and marriages; it would not be impertinent to annex the manner of their divorcements, which upon juſt cauſes were permitted. x There were two manner of divorcements, the one between parties only contracted, the ſecond between parties married. The firſt was properly called *Repudium*, in which the party ſuing for divorcement uſed this form of words, *Conditione tua non utar*. The ſecond was called *Divortium*, wherein the party ſuing for it, uſed theſe words, *Res tuas tibi habeto: velres tuas tibi agito*. Both theſe kinds were termed *Matrimonii renunciationes*, renouncing or refuſal of marriage. Where me muſt

f Alex Gen. dier. l. 2. c. 5.
t Lipſ. Elect. l. 1. c. 17.
u Vid. F. Syl. Pro Cluent.
* Sig. de jur. Rom. l. 1. c. 6.
x Roſin. ant. l. 5. c. 38.

must note, that instedof this verb *renunciare*, divers good Authors doe use this phrase, *Mittere*, or *Remittere nunciam*: as *C. Cæsar Pompeiæ nuncium remisit*, *C Cæsar* hath divorced *Pompeia*. And alluding here unto *y Cicero* saith, *virtuti nunciam remisit*, i. e. he hath cast off all goodnes, he hath even divorced vertue. Secondly, we must note, that this verb *Renuncio*, doth not only signifie to renounce or to refuse, but many times in *Tully* it signifieth to declare or pronounce a Magistrate elected, as *Renunciare Consulem Prætorem*, &c. The reason why in matrimonial contracts it signified to renounce or refuse, was because in these divorces they did oftentimes send to their wife, *per nuncium*, by a messenger, some bill or scrole of Paper, containing the causes of the divorce. Moreover we are to observe, that in these divorces, the Ceremonies were quite contrary to those in Marriages; the just causes of being fore-signified to the Censors, the Marriage tables were broken, the dowry restored, the keys of the house taken from the woman, and she turned out of doors: all which Ceremonies are at large treated of by *Tho. Dempster. l.* 5. *Antiq. Rom. c.* 38.

y Ep. fam. l. 7.

CAP. 21.

Quo apparatu, quibusq; ceremoniis apud veteres defuncta corpora igni tradebantur.

THe Romans in ancient time, when they perceived a body dying, had such a custome, that the next of the kin should receive the last gasp of breath from the sick body, into his mouth, as it were by the way of kissing him: (to shew thereby how loath and unwilling they were to be deprived of their friends) and likewise should close the eyes of the party being deceased. Whence *Anna* said unto her sister *Dido* now dying,

z Virg. Æn 4.

——*z Extremus si quis super halitus errat,*
Ore legam——

And *Penelope* wishing that her son *Telemachus* might outlive

live her self and his Father, writeth to her husband in this manner, *Ille meos oculos comprimat, ille tuos.*

After the body had thus deceased, they kept it seaven dayes unburied, washing the corps every day with hot water, and sometimes anoynting it with oyle, hoping that if the body were only in a slumber, and not quite dead, it might by these hot causes be revived.

Per calidos latices alienа undantia flammis
Expediunt, corpusq; lavant frigentis & ungunt.

In these seven dayes space, all the dead mens friends met together now and then, making a great out-cry or shout with their voices, hoping that if the dead body had been only in a sound or sleep, he might thereby be awaked. This action was termed *conclamatio*; Whence when we have done the best we can in a matter, and cannot effect it, we say proverbially *conclamatum est*, for this third conclamation or general outcry (which was always upon the seventh day after the decease) was even the last refuge, at which if the body did not revive, then was it carried to burial being invested with such a gown as the parties place or office formerly had required. Those who had the dressing, chesting, or embalming of the dead corps, were called *Pollinctores*: After they had thus embalmed the corps, they placed it in a bed fast by the gate of the dead mans house, with his face and heels outward toward the street, according to that of *Persius*.

——*Tandem ô beatulus alto*
Compositus lecto, crassisq; lutatus amomis,
In portam rigidos calces extendit ——

Herewith accordeth *Homer*, speaking of *Patroclus* his Funeral,

Ὅς μοι ἐνὶ κλισίῃ δεδαγμένος ὀξέϊ χαλκῷ
Κεῖται ἐπὶ προθύροισι τετραμμένος —— *i. e.*
Qui mihi in tabernaculo confossus acuto ære
Jacet ad vestibulum conversus.

This Ceremony was properly called *corporis collocatio*: and fast by this bed neare the gate also was erected an Altar,

tar, called in Latine *t Acerra*; upon which his friends did every day offer insence until the burial: The gate on the outside was garnished with Cipress branches, if the dead man were of any wealth or note: for the poorer sort by reason of the scarcity of the tree could use no such testimony of their mourning.

t Alex. Gen. dier. l. 3. c. 7.

u Et non plebeios luctus testata cypressus.

u Lucanus.

In these seven dayes space, certain men were appointed to provide all things in readiness for the funeral; which things were commonly sold in the *x* Temple of *Libitina*, from whence those providers were termed *Libitinarii*, though sometimes this word *Libitinarius* doth signifie as much as *Capularis*, an old decrepit man ready for the grave. Upon the eighth day a certain Crier in manner of a Belman went about the Town to call the people to the solemnization of the Funeral in this form of words; *Exequias y L. Tito L. Filio quibus est commodum ire, jam tempus est. Ollus ex ædibus effertur.* After the people had assembled themselves together, the bed being covered with purple, or other rich covering, the last conclamation being ended, a Trumpeter went bef re all the company, certain poor women called *Præficæ* following after, and singing songs in the praise of the party deceased: where we must note, that none but the better sort had a Trumpet sounded before them; others had only a Pipe; *z Senatoribus & patriciis tuba, minoribus & Plebeiis tibia canebant siticines*, this word *Siticines*, signifying either a Trumpeter or Piper, because they did both *ad sitos*, i. e. *mortuos canere*. Again, except it were one of the Senators, or Chief Citizens, he was not carried out upon a bed, but in a Coffin upon a Bier. Those that carried this bed were the next of the kin, so that it fell often among the Senators themselves to bear the corps; and because the poorer sort were not able to undergo the charges of such solemnities, thereupon were they buried commonly in the dusk of the evening, and hence *à vespertino tempore*, those that carri-

x Alex. Gen. dier. l. 5. c. 16.

y Rosin. ant. l. 5.

z Alex. Gen. dier. l. 3.

ed the corps were termed *vespæ*, or *vespillones*. In the burial of a Senator or chief officer, certain waxen Images of all his Predecessors were carried before him upon long poles or spears, together with all the Enfignes of honour which he deserved in his life time. Moreover, if any servants had been manumissed by him, they accompanied the mourners, lamenting for their Masters death. After the corps, followed the dead mans children, the next of kin, and other of his friends *atrati*, *i. e.* in mourning apparrel. From which act of following the corps, namely *à sequendo*, these Funeral Rites have been termed *Exequiæ* as *Donat* hath observed upon that of *Terence*, *Funus interim procedit, nos sequimur*. Which Rites because they were performed as debts due unto the party deceased, hence were they also called *Justa*. *Eo dicuntur justa, quod jure mortuis factitari debent à vivis. Polyd. de invent. l. 6. c. 9.* The corps being thus brought unto their great Oratory called the *Rostra*, the next of the kin *a laudabat defunctum pro rostris*, i. e. made a Funeral Oration in the commendation principally of the party deceased, but touching the worthy acts also of those his Predecessors, whose Images were there present. The Oration being ended, the corps was in old time carried home again in manner as it was brought forth.

a Suet. C. Jul. Cæsar. c. 6.

Sedibus hunc referente suis & conde sepulchro.

But afterward by the law of the twelve tables, it was provided that no man besides the Emperour and Vestal Nuns should be buried within the City, though some upon especial favour have obtained it. The manner of their burial was not by interring the corps, as in former times it had been, but burning them in a fire, *b* the reason thereof being to prevent the cruelty of their enemies, who in a mercilesse revenge would at their conquests dig up the buried bodies, making even the dead also subjects of their implacable wrath. This fire before the burning was properly called *Pyra*; in the time that it burned, it ws called *Rogus*, *c quod tunc temporis Rogari*

b Salmuth. in Panciro l. 1. rerum deperdit. de exequiis.

c Serv. Æn. 5.

Rogari ſolerent Manes; after the burning then was it called *Buſtum, quaſi bene uſtum.* This *Pyra* was alwayes built in form of a Tabernacle, as it is *above more at large to be ſeen; whither after the dead man had been brought, his friends were wont to cut off one of his fingers, which they would afterward bury with a ſecond ſolemnity. The charges at Funerals growing by this means to be doubled, the law of the 12 Tables provided in theſe words, *Homini mortuo oſſa ne legito, &c.* that no mans finger ſhould be cut off, except he died either in the War, or in a ſtrange Country. Where we muſt obſerve, that *lego* in this place doth ſignifie as much as *adimo* or *aufero*, in which ſence we call him *ſacrilegium, qui legit*, i. e. *qui adimit & aufert ſacra.* After the dead body had been laid upon the *Pyra*, then were his eyes opened again to ſhew him Heaven, if it were poſſible: *d* and withall an half-penny was put in his mouth, they ſuperſtitiouſly conceiting that that half-penny was *naulum Charontis*, the pay of *Charon* the ſuppoſed Ferry-man of Hell, who was to carry mens ſouls in his boat over the *Stigian* Lake after their deceaſe. About this *Pyra* were many boughs of Cypreſs trees to hinder the evil ſent of the corps to be burned. The dead body being thus laid upon the *Pyra*, the next of the kin turning his face averſe from the *Pyra*, did kindle the fire with a Torch: After this, commonly certain Fencers hired for this purpoſe did combate each with other, till one of them was killed, they were termed *buſtuarii* from *buſtum.* The blood of thoſe that were ſlain, ſerved inſtead of Sacrifice to the infernal Gods, which kind of Sacrifice they termed *Inferiæ.* *e* *Inferiæ ſunt ſacra mortuorum quæ inferis ſolvuntur.* Anon after the body had been burned, his neareſt friends did gather up the aſhes and bones, which being waſhed with milk and Wine, were put into certain Pitchers called *urnæ* whence this word *urna*, is often uſed by the Poets, to ſign, fie a Grave or Sepulchre, as

Unarequieſcit in urna: Ovid. Met. lib. 4.

*Vid. ſup. p. 30.

*d Alex. Gendier. l. 3.

*e Servius.

Though properly *ſepulchrum* was in old time a vault or arched roof, round about the Walls whereof were placed certain coffins called *loculi*, within which thoſe former *urnæ* were laid up and kept, namely, two or three in each coffin. Now theſe Funeral ſolemnities were commonly towards night, inſomuch that they uſed torches; theſe torches they properly called *g funalia à funibus cera circundatis, unde & funus dicitur.* *h* Others are of opinion, that *funus* is ſo ſaid from the Greek word φόνος, ſignifying death or ſlaughter. The bones of the buried body being thus gathered up, then did the Prieſt beſprinkle the company with clean water thrice, and the eldeſt of the mourning women called *Præficæ*, with a loud voice pronounced this word *Ilicet*, thereby diſmiſſing the company, (the word ſignifying as much as *Ire licet*;) Then preſently did the company depart, taking their farewel of the dead body in this form of words: *Vale, vale, vale; nos te ordine quo natura permiſerit ſequemur.* If any of theſe ceremonies had been omitted, *i* then was it termed *ſepultura inſepulta*, in the ſame ſenſe as *nuptiæ* formerly were termed *innuptæ*. The old and aged men were invited, after the burial, to a feaſt, or Funeral bankquet, called *ſilicernium* *k quaſi ſilicænium*, i.e. *cæna ſupra ſilicem poſita*, their cuſtom being to eat that feaſt upon an Altar of ſtone; and becauſe this feaſt was only eaten at Funerals, and by the elder ſort, *l* hence figuratively this word *ſilicernium* doth ſometimes ſignifie an old cripple ready for the grave. The poorer people inſtead of a feaſt, receiv'd a dole or diſtribution of raw fleſh: this dole was termed *Viſceratio*. Moreover, there was a portion or drinking of Wine after the burial, called *Murræta*, or *Murrhina potio*, which afterwards the law of the 12 Tables for the avoiding of expenſes did prohibit, as likewiſe for the moderating of grief in the mourners; it did prohibit the uſe of this word *Leſſum*, [*Neve leſſum funeris ergo habento*] for that word was often ingeminated in their mourning as a doleful ejulation, or note of

f Roſin. ant. l. 5.

g Servius. in Æneid. l. 1.

h Hub. in Cic. ep. fam. l. 4.

i Hiero. Ferarius. in Cic. orat. Philip.

k Servius. in Æneid. l. 5.

l Anteſig. in Ter. Adelph. Act. 4.

of inward ſorrow. This ſorrowing or mourning was in ſome caſes utterly prohibited, in others limited; *m* namely, an Infant dying before he was three years old, ſhould not be mourned for at all; becauſe he had ſcarcely yet entred into this life. Elder perſons were to be mourned for ſo many dayes as they were yeares old. Wives were permitted to mourn for their Husbands (*Alexander* adde th alſo children for their Fathers) ten months if they would, within which time the widow could not marry another Husband without infamy and diſcredit. *Polyd. de Juven. l. 6. c. 9.* Here we may with *Revardus* obſerve a diſtinction between *Lugere* and *Elugere*; *Lugere* ſignifieth no more than to mourn ſome part of the time preſcribed, *Elugere* to mourn the whole and full time.

m Alex. Gen. dier. l. 3. c. 7.

LIB. II. SECT. III.

Of the Roman *Games.*

CAP. I.

De ludis Megalenſibus.

THe Playes uſually exhibited by the Romans, may be divided into three ſorts; ſome were *Ludi Sacri*, others *Honorarii*, others *Ludicri*. Thoſe were termed *Sacri*, which were inſtituted immediately to the honour of the Gods: ſuch were theſe that follow in their ſeveral Chapters. *Megalenſes ludi*, they are called ſimply *Megaleſia*, from the Greek word μέγας, ſignifying *Magnus* becauſe they were performed in the honour of *Cybelle*, called *Magna mater*: of which I have ſpoken formerly, and there alſo diſcovered the manner of this feaſt. Only here taken notice of that which is not mentioned there, namely, that theſe Games began *à pridie Nonas Aprilis*, i. e. on the fourth of *April*, and continued ſix dayes after, as appeareth by divers Authors, but more eſpecially by *Ovid*, who could not eaſily be corrupted, *Ovid. Faſt. lib.* 4. He having ſpoken of the riſing of the *Pleiades*, which is on the the ſecond of *April*, addeth,

Ter ſine perpetuo cœlum verſetur in axe,
Ter jungat Titan, terq; reſolvat equos;
Protinus inflexo Berecynthia tibia cornu
Flabit, & Ideæ feſta parentis erunt.

This I note, that the error crept into *a Livy* may be obſerved, who treating of the matter in hand, ſaith, *In eadem Victoriæ quæ eſt in Palatio, pertulere Deam pridie Idus Aprilis, iſq; dies feſtus fuit: populus frequens dona Deæ in Palatium tulit; Lectiſternium, & Ludi fuere Megalenſia appellata.* That is, that theſe Playes were cellebrated upon the twelfth of *April*. But in the judgement of many Expoſitors, we are to read *Pridie Nonas* for *Pridie Idus*. Moreover, ſervants might not be ſpectators here. And becauſe the *Prætors* did frequent theſe ſports in their purple and beſt robes, *b* hence grew that Proverb *Purpura Megalenſis*. To the younger ſort at this time, liberty was granted to counterfeit all mens geſtures and ſpeeches, without diſtinction of degree or age. *c* They were ſometimes termed *Ludi ſcenici*, though properly, *Ludi ſcenici* ſignified Stage-Playes, and were performed in the honour of *Bacchus*.

a Liv. l. 34

b Ant. Conſt. in Ovid. Faſt. l 4.

c Jul. Scalig. Poet. l. 1. c. 29.

CAP. 2.

Ludi Cereales.

THat theſe games were performed in the honour of *Ceres*, is by none doubted. In them was repreſented by the *Roman* Matrons, *Ceres* her lamentation for her daughter *Proſerpina*, taken away by *Pluto*; the *Roman* men beheld theſe playes in white gowns: The women performed the ſacred and holy Rites in a white garment alſo. Among whom it was obſerved, that then they thought their ſervice grateful to the Gods, when it was performed by thoſe that were joyful, and free from all funeral pollutions. At this time there was a ſolemn going in proceſſion, and carrying about their Gods in the Cirque; this olemnity was properly called *Pompa*.

Circus

Circus erat Pompa celeber, numeroq; Deorum,
Primaq; vento sis palma petetur equis;
Hic Cereris ludi, &c. *Ovid. Fast. lib.* 4.

The manner of this solemn shew, which, as I noted, was properly called *Pompa*, is described *d* thus by its particulars; that there was *Simulachrorum series, imaginum agmen, currus, thensæ, armamaxæ, sedes, coronæ, exuviæ*, i.e. First, in this solemn procession were carried about the Images of the Gods. Secondly, the Images of well deserving men. Thirdly, Chariots led up and down for greater state and magnificence; unto this *Virgil* alludeth:

Hic illius arma,
Hic currus fuit.

Fourthly, Pageants, so I interpret *Thensæ*, which were so called *quasi tensæ à tendendo*, as *e Asconius* noteth, because they were carried up and down, by the help of certain ropes, which to touch they counted a point of Religion. Fifthly, horse-litters; for that these *armamaxæ* were not Chariots, or Waggons, appeareth by him, *f Qui ex curru in armamaxam deponebatur*. They seem to have been of a compounded form, in part like Chariots, called ἅρματα, in part like Wains, called ἁρμαξαι, and thence ἁρμάμαξα, hath its appellation. ἁρμάμαξα, *inquit Phavorinus*, ἡ πρὸς ἀνδρῶν κάθεδραν κατεσκευασμένη ἁρμαξα ὅιον ἅρμα καὶ ἅρμαξα, ἢ ἀνδραμαξατις ὅσα ἡ ἄγουσα τοὺς ἀνδρᾶς. In which words, besides the Etymologie expressed, the use thereof is declared to be for the carriage of men. That as chariots went empty for greater magnificence, and as in their Pageants were carried the *Simulachra Deorum*, according to that, *g Thensæ Deorum vehiculum*: so in these Horse-litters were carried men; or rather that same *agmen imaginum*, which was the second particular. Sixthly, Chairs of State. Seventhly, Crowns. Lastly, Spoils taken from their enemies. These three last I take to have been used chiefly and principally in the *Roman* supplications, or publick thanksgivings for any great victory; the custom being in such shews, when they came to such and such

d Terd. de spect. c. 7.

e Vid. Franc. Jun. annot. in Ter. de spect. It. de tensis vid. Turneb. 26, 27.

f Herod. 17.

g Alex. ab Alex. l. 2. c. 32.

remarkable

remarkable places in the Cirque, to pitch a certain chair adorned with Crowns of Victories, and ſpoils taken from the enemy reputing it not the leaſt office, *h* thus to honour their Emperour, though abſent, with the prerogative of ſuch a Chair. Now in the preparation to this particular ſhew, we read, that an egge was eſpecially provided. It is obſerved by *i* many out of *Macrobius*, whoſe words are; *Ovumq; in Cerealis Pompæ apparatu numerabatur primum.* The obſervation is general, but the reaſon thereof, *Inter arcana Cereris*, quite ſuppreſſed, and by none that ever I could meet with yet explained: if my conjecture may ſatisfie in a matter ſo obſcure, conceive it thus: Theſe pompous ſhews were various, and in the honour of divers Gods, and accordingly the *Romans* made choice in every ſuch ſolemnity, of ſome one principal thing in their ſhew, unto which the glory of the preſent ſolemnity ſhould in a more eſpecial manner belong. Thus in the *Pompa Circenſes*, which was celebrated in the honour of the *k* Sun, great horſes were led up and down for greater ſtate; *l Quia equis, & equeſtribus exercitamentis ſol præeſſe credebatur ſuperſtitione antiquiſſima.* Hence the Cirque-place it ſelf was called τὸ ἱππικὸν, and ἱππόδρομον. After this ſame manner in this *Pompa Cerealis* (which was alſo ſometimes called *Circenſis*, from the place where it was exhibited) an egge was chiefly and principally provided: for ſeeing that under the name of *Ceres*, this ſolemnity was performed to the *Earth*, how could the *Earth* be more honoured, than by bearing about the Hieroglyphick of the whole World? as if they did intimate thereby, that even Heaven it ſelf was beholden to the *Earth.*

h Vid. Iſaac. Cauſab. in Sueton. Jul. c. 76.

i Hoſp. de rig. feſt. Roſin. l. 5. c. 14. Alex. ab. Alex. l. 6. c. 19.

k Solis honore novi grati ſpectacula Cerei Antiqui ſanxere patres. Corrip. Afric. l. 1. c. 17. vid. Dempſt.

l Franc. Jun. annot. in Ter. de ſpect. c. 8.

——*Pecori frondes; alimentaq; mitia fruges*
Humano generi, vobis quoq; thura miniſtro. Ov. *Met.* l. 2.

And ſuch an Hieroglyphick *m Cœlius Rhodiginus* proveth an egge to be, partly from its circular and Globe-like form, partly from the matter whereof it conſiſteth; the hard ſhell reſembling the ſolid earth; the more ſpiritu-

m Cœl. Rhod. l. 27. c. 17.

ous part thereof, the air; the moist and liquid part, the water; the yolk,; the element of fire; yea, he noteth also, as there is *n mundo*, so likewise, *in ovo vis vitalis*, a kind of quickning and enlivening power in both. Otherwise if this opinion give not content, we may interpret the carrying about of the egge, to be in the honour of *Castor* and *Pollux*: for as there were marks, or goals in the Cirque, some in the form of *Dolphins*, in the honour of *Neptune*; so there were others *n* ὠὰ δὴ δημιουργήματα, marks of a long roundness in form of an egge, in memory of *o Castor* and *Pollux*, which were *ovo editi*, according to that of *Horace*;

n Dion. l. 49.

o Tertul. de spect. c. 8.

Ovo prognatus eodem. Hor. serm. 2. Sat. 1.

For the same reason haply it was, that an egge was at this time carried up and down, as the chief and principal Ensign.

CAP. 3.
Ludi Florales.

THese games or sports were instituted in the honour of the Goddess *Flora*, that she being therewith appeased, the earth might bring forth flowers and fruits in great abundance. Of the Goddess it hath been spoken before. The time of the year when these sports were observed, *p* was upon the four last days of *April*, and the first of *May*, whence is that of *Ovid. Fast. 5.*

p Alex. ab. Alex. l. 6. c. 8

Incipis Aprili, transis in tempora Maii;
Alter te fugiens, cum venit alter, habet.

The manner thereof was, that shameless strumpets did then run up and down the streets naked, using many lascivious and obscene gestures and speeches: they were called together by the sound of a Trumpet, unto which *Juvenal* alludeth,

Dignissima prorsus
Florali matrona tuba.

Moreover, whereas in other games, Bores, Lions, and Bears were

were publickly baited to recreate the ſpectators; here onely Goates and Hares, and ſuch milder beaſts were hunted, becauſe the Goddeſs *Flora* had not the cuſtody of Woods and Forreſts, where the wild beaſts ranged, but Gardens and Meadows. At this time alſo Elephants were brought forth into the publick view of the people, which were taught *r* to walk on ropes; and that there is an aptneſs in Elephants to go forward and backward on ropes, *ſ Pliny* teſtifieth.

q Hoſ. de orig. feſt.

r Suet. in Ga'.

ſ Plin. l. 8. c. 3.

CAP. 4.
Ludi Martiales.

OF theſe ſports there is not much ſpoken: *t* they were obſerved upon the firſt of *Auguſt*, becauſe on that day the Temple of *Mars* was conſecrated. They were firſt inſtituted *u* by *Numa Pompilius*.

t Dion. l. 60.

u Tertul. de ſpect. c. 5.

CAP. 5.
Ludi Apollinares.

THere was an ancient Poet called *Martius*, * out of whoſe writings, as likewiſe out of the *Sybilline* Oracles, the Romans were admoniſhed to dedicate certain Games to *Apollo*. At the firſt celebration of them, *x* it is reported, that a ſudden and unexpected Invaſion of Enemies inforced the Roman people to forſake their ſports, and to betake themſelves to weapons: in which time of their deſtruction, a Cloud of Darts and Arrows was ſeen to fall upon their Enemies, ſo that they preſently returned Conquerors unto their ſports, where *y* at their return they found one *C. Pomponius*, an old man, dancing to a Minſtrel, and being very joyful, that their ſports had been continued without interruption, they cryed forth, *Salva res eſt, ſaltat ſenex.* Which ſpeech after became proverbial, and is fitly uſed, when a ſudden evil, is ſeconded with a good event, beyond hope or expectation.

* Liv. lib. 5. dec. 3.

x Macrob. l. 1. Sat. c. 17.

y Suet. Pomp. Feſt. vid. Hoſp. de orig.

CAP. 6.

De ludis Romanis, qui & magni, & Conſuales, & Circenſes dicti.

THeſe ſolemnities are ſometimes called *Romani ludi*, becauſe of their antiquity amongſt the *Romans* being firſt inſtituted by *Romulus*; ſometimes *Magni ludi*, either becauſe of the great charge and expence of money at that time, or becauſe they were performed in the honour of their great God *a Neptune*, called alſo *Conſus*, becauſe he was reputed the God of ſecret *Counſels*, whence the ſolemnities themſelves are ſometimes called *Conſualia*: whereas many of the *Roman* Temples for certain myſterious ſignifications, had their peculiar manner of building, *b Servius* noteth that the Temple in the great Cirque, dedicated to *Conſus*, was covered, to ſignifie that Counſels muſt be ſecret and concealed. Likewiſe for the ſame reaſon, *c* his Altar was made under the earth not appearing in publick view, ſave onely in the time of theſe ſolemnities exhibited. The chief ceremonies uſed at this time, conſiſted in the adorning of their Horſes and Aſſes with garlands, wherein they thought that *Neptune* was honoured, who was the firſt Author and inventor of horſe-riding: hence *Neptune* himſelf is called ἵππιος. This feſtival was firſt inſtituted by *Evander*, in the honour of *Neptune*, under the name of ἵππιος, and *e* thence the feaſt was called ἱππικὰ. Afterward it was renewed by *Romulus*, in the honour of *Neptune* likewiſe, but under the name of *Conſus*, becauſe *Romulus* needed a God of Counſel to aſſiſt him in that deſignment of his, for the violent taking away of ſo many *Sabine* women, as were taken away at the firſt celebration of theſe games. The reaſon of *Romulus* his inſtitution of them, being no other, but that upon the fame of theſe new ſports, many *Sabine* women flocking thither to be ſpectators, his project might be the ſooner effected. Theſe and the Cirque-ſhews,

a Tert. de. ſpect. c. 5.

b Serv. in Vir. Æn. l. 8.

c Alex. ab. Alex l. 5. c. 26.

d Vid. Suid

e Dion. Hal. lib. 1.

ſhews, ſo often mentioned in ancient Authors, at firſt were all one, as appeareth by that of *f Valerius*. *Ad id tempus Circenſi ſpectaculo contenta erat civitas noſtra, quod primus Romulus raptis virginibus Sabinis Conſualium nomine celebravit.* Touching theſe Cirque-ſhews, ſome are of opinion, that they were performed in the honour of *Ceres*; this *Julius Scaliger g* diſliketh, and he is of opinion, they were celebrated in the honour of *Neptune*: others are of opinion they were inſtituted in the honour of the *Sun*. All opinions may be reconciled, if we underſtand firſt, thoſe Authors who aſcribe theſe Cirque-ſhews to *Ceres*, to ſpeak of the *Cerales Ludi*, which we read ſometimes to be called *Circenſes*, becauſe they were exhibited in the Cirque. Secondly, if we diſtinguiſh the *Pompa Circenſis*, from the *Circenſes Ludi*, and from the *Cereales ludi*: the *Cereales ludi*, were inſtituted in the honour of *Ceres*; the *Circences ludi*, in the honour of *Neptune*; the *Circenſis Pompa* in the honour of the Sun. And furthermore for the full underſtanding hereof, we muſt know that the horſes brough into the Cirque at this time, were of two ſorts: ſome were only ἵππιοι, ſuch as were led up and down for ſhew and ſtate; I underſtand *Alex. ab Alex.* to ſpeak of theſe horſes, when he ſaith *h* horſes were conſecrated to the Sun: nay I underſtand thoſe horſes mentioned 2 *Kings* 23. to have been of the like ſuperſtitious invention, where it is ſaid that *Joſiah* did put down the horſes given to the *Sun* and the *Chariots of the Sun*. That practice I ſay, hath near affinity with this of the *Romans*, but I think it to have been originally derived to the people of *Judah*, from the *Perſians*, who alſo accounted them holy to the Sun; *i* and the *Perſian* King when he would ſhew himſelf in great ſtate, cauſed an exceeding great horſe to be led up and down, which was called *Equus Solis*. Other horſes were for exerciſe and race, we may call them ἵππους: the inſtitution of theſe I ſuppoſe to have been in the honour of *Neptune*. The prizes of maſteries exerciſed in time of this Cirque-ſhew were many; fencing, and

f Val. Max. lc. 4.

g Jul. Scal. l. poet. c. 32.

h Alex. ab. Alex. l. 3. c. 12.

i Cœl. Rhod. ant. l. 8. c. 2.

and that untill one of the combatants were killed in the place; fighting with beasts; wrestling, running of races on foot: jumping, and leaping, horse-racing; sea-skirmishes exhibited in some river: coach-races, and fighting at whorlebats. Howsoever the nature and manner of these games are in some measure understood by the very names; yet a more large discourse concerning the two last, will be very behoveful, for the more full understanding of the *Roman* history. These coach-races, when this manner of race was first instituted, were divided into two companies, which they termed, *Factiones albas & russeas*, distinguishing each faction or company by the different colour of their coates. After ward they were divided into four companies distinguished alwayes by their colours, whence came that distinction, *Factiones Prasina, Veneta, Russata, Albata*: which colours may thus be Englished: The first signifying a deep green: the next a kind of russet inclining to red: the third a Venice blew, or Turkey colour, and the last a perfect white. Of these *l Tertullian* speaketh as followeth, *Aurigis coloribus idololatriam vestierunt, & ab initio duo soli fuerunt, albus & russeus. Albus hyemi ob nives candidas, russeus æstati ob solis róborem voti erant: sed posteatam voluptate, quam superstitione provecta russeum alii Marti, alii album Zephyris consecraverunt: Prasinum vero terræ matri, vel verno: Venetum Cœlo & mari, vel autumno.* As the Emperour, so the people sometimes favoured one faction or company, sometimes another: and accordingly as they favoured the company, they would lay wagers on their side, which wagers they termed by a peculiar name *Sponsiones*; thus *m Turnebus* interpreteth *Tertullian*, where he saith, that the people flockt to these races, sometimes for one reason, sometimes for another, but sometimes *n Sponsionibus concitatus, i.e.* stirred up with a desire of betting, or laying wagers. To these four *o Domitian* in his time added two other companies, the one wearing cloth of gold, the other of purple; but these latter remained not long in use. Their fighting at whorlebats they

k Fen. Salm. in Pancir. c. de Cir. max.

l Ter. de spect. cap. 9.

m Turneb. ad l. 8. c. 4

n Tertul. de spect. c. 16.

o Suet. in Domitian c. 7.

they termed *bellare ceſtu*. The manner of the fight conceive thus; the combatants had in each hand a ſtrap of leather, which each ſtruck at the other (for we muſt know, that this kind of fight ſucceeded fiſticuffs; and becauſe in fiſticuffs the party ſtriking, did by the blow as well hurt his own fiſt, as he did him that was ſtrucken, hereupon they invented this other kind of fight with leathern ſwitches) theſe leathern ſwitches they called *Ceſtus*, from the Greek κεστος, ſignifying a belt or girdle; to make the fight more dangerous, they did in after-times tye peices of Lead, or Iron, at the end of theſe Leathern ſtraps, ſo that they did with the force of the ſtroak, often daſh out one anothers brains; and becauſe by the weight of the Lead or Iron, the ſtrap might chance to fly out of their hands, they cauſed each ſtrap to be tyed faſt to their arms and ſhoulders; neither was this without reaſon; for thoſe Iron or Leaden peices could not be but very weighty, being made in the bigneſſe and [q] form of Rams Hornes. Laſtly, theſe Cirque ſhews had their appellation *Circenſes*, either from the great Cirque, or ſhew-place, called *Circus Max.* where the games were exhibited; or from the ſwords wherewith the players were environed, as one would ſay *Circùm enſes*. They much reſembled thoſe Grecian games called *certamina Olympica*, where the runners with Chariots were hemmed in on the one ſide with the running river, and on the other with ſwords pitched point-wiſe, that they ſhould hold the race on directly and not ſwerve aſide without danger. *Some have thought them to be the ſame with *ludi Gymnici*, ſo called from γυμνος, naked; becauſe that thoſe which did perform thoſe kindes of exerciſes, did either put off all, or the greateſt part of their cloaths, to the intent that they might the more readily and nimbly perform their games; for which purpoſe they did alſo anoynt their bodies with oyle; whence we ſay, when a man hath loſt his coſt and labour, *Operam & oleum perdidit*; *oleum* in this place ſignifying coſt and charges;

p Jul. Scal. lib poet. c. 22.

q Aldus. Manut. l. 2. de queſt. per epiſtolam, ep 8. vid. Roſin. ant. l. 5 c. 5.

* Roſin. ant l. 5. c. 5.

ges: so that the proverb was the same with that of the Coblers Crow, *Opera & impensa periit.*

CAP. 7.

Ludi Capitolini, & Agones Capitolini:

THe first institution of these games *r Livy* sheweth, where likewise, he intimateth the reason why they were called *Capitolini*, to have been in the honour of *Jupiter Capitolinus*, because he preserved the *Capitoll*, when it was assaulted by the *Gauls*: we must distinguish these games from those other shewes called *Agones Capitolini*, instituted by *Domitian*: For those *Ludi* were exhibited yearly, *f* these *Agones* every fifth year: In those was celebrated the deliverance of the *Capitol*: In these Rhetoricians, and Poets, and men of other professions contended for the victory: and hence *t Rosinus* thinketh the *Poets laureat* to have taken their beginning. He is likewise of the opinion that *Juvenal* alludeth unto these solemnities,

r Liv. dec. 1. & lib. 5.

f Sueton. in Domit. c. 4.

t Rosin. ant. l. 5. c. 18.

——*Sed cum fregit subsellia versu,*
Esurit intactam Paridi nisi vendat Agaven. Sat. 7.

Although the allusion may be granted, yet herein I think *Rosinus*, though otherwise learned, to have been mistaken, in interpreting *Fregit subsellia*, by *Non stetit*, *Excidit*, or *Non placuit*: as if the Poet, of whom *Juvenal* speaketh, had been conquered at this time. In my opinion neither will the purpose of *Juvenal*, nor that phrase of speech admit that construction. Not the purpose of *Juvenal*; for the scope and drift of that Satyre, is to shew, that be the Poet never so pleasing, or let him give full satisfaction to the people, yet he shall receive no benefit thereby, but a vain and empty applause, so that he shall be compelled to sell those very Poems which are received with so general an approbation, to buy victuals, and prevent hunger. Neither doth that interpretation agree with that phrase: for *Frangere subsellia*, doth rather on the

the contrary, signifie the vehement acclamation given by the people in approbation of the Poem, it being a poetical elegancy, to express the vehemency and greatness of the applause. *u Sidonius Apollinaris* useth the self same phrase. *Hunc olim perorantem, & rhetorica sedilia plausibili oratione frangentem, socer eloquens ultro in familiam ascivit.* Neither is that of *Virgil* unlike.

u Sidon Ap. l. 5. epist. ad Sapand.

Et cantu querelæ rumpunt arbusta cicadæ.

Yea the *Græcians* u'd the same manner of speech, *x* κατεῤῥήσνυτο πάς ὁ τόπος, ὑπὸ τοῦ κρότου, καὶ τῆς κραυγῆς. So that hereby I think the Poet understandeth, that *Grande sophos*, so often mentioned by *Martial*, it being a usual custome amongst the *Romans*, to signifie their approbation of the Orator or Poet, by the loud acclamation of σοφῶς, or ὀρθῶς. Unto which *Horace* alludeth *de arte poet.*

x Polyb. in hist. 15.

——*Clamabit enim pulchrè, benè, recte.*

But to return whence we have digressed, these latter solemnities were of such note, that whereas the *Romans* formerly, made their computations of their greater year, called *Annus magnus*, by their *lustra y* now they made it by these *Agones capitolini.* Again, we must distinguish these *Agones quinquennales* instituted by *Domitian*, from those *Ludi quinquennales* instituted by *z Augustus Cæsar*, in memory of the Victory, which he got against *Antonius*, upon the promontory *Actium*, whence they were called *Actiaci Ludi.*

y Hospin. de orig. fest.

z Sueton. Aug. cap. 18.

CAP. VIII.

De ludis sæcularibus.

AUthors agree not upon the just period of time, when these secular names were to be renewed; some are of opinion, that they were to be celebrated every hundreth year; some every hundreth and ten, some once only in three hundred: but in this all agree, that they were named *sæculares*, from *sæculum* which signifieth at least

Herodian. lib. 3 in vita Severi.

a Rosin. ant. q. l. 5. c. 21.

least an hundred years, *a saeculum in centum annos extendi existimabant*. Because the full and compleat age of a man, might extend it self to the hundreth year, and seldom to many above an hundred: thence it was, that the form of words used by the publick cry in proclaiming these Games

b Pol. Virg. de invent. l. 8. c. 1.

was, *b Venite ad Ludos quos nemo mortalium vidit, neq; visurus est*. Unto which *c Ovid* alludeth, *Trist. l. 2.*

c Ov. Trist l 2.

Carmina ——

Jusserat & Phœbo dici, quo tempore ludos
Fecit: quos ætas aspicit una semel.

But the Emperours being ambitious of honour, and desirous to be spectators of the Games in time of their own reign, they did often anticipate the time. *Claudius Cæsar* amongst

d Alex. ab. Alex. l. 6. c. 9.

the rest, proclaimed them within *d* sixty three years, after *Augustus* had observed them, which occasioned the people to deride his cryer, inviting the people to those shews and sports, which no man living either had seen, or should see again. Because *e* some who were spectators,

e Suet Claud. c. 21.

may actors in those solemnities exhibited by *Augustus*, lived at the same time, when *Claudius* caused this to be proclaimed. These Playes were also *f* called *Tarentini ludi*,

f Hospinian. de orig. fest.

not from the City *Tarentum* in great *Greece*; but from a certain place of the same name near *Rome*, adjoyning to the river *Tiber*. All the Theatres at this time were filled, and sacrifices offered throughout all the *Temples*, for the space of three dayes, and three nights, which giveth light to that of *Ausonicus*.

Trina Tarentino celebrata trimestria ludo.

The first day the Emperour, and the *Quindecem viri*, early in the morning ascended the *Capitol*, and their offered sacrifice according to the wonted manner: thence they departed to the Theatres, to perform solemn Playes in the honour of *Apollo* and *Diana*. The second day the noble Matrons assembled together in the *Capitol*, they offered up supplications unto their Gods, they fasted and sung hymnes in the honour of the Gods. The third day seven and twenty Boyes, going along three and three,

three, and as many Maids in like manner, all of them nobly descended, and having both Father and Mother alive, sung verses: in which they commended the *Roman* State, to the protection of the immortal Gods. This was termed *Pæanas concinere*, which word *Pæan*, though it signifieth primarily an hymn, or song of praise made to *Apollo*, who was called *Pæan*, *g* from παίειν, *à feriendo*, because of his Victory gotten of the *Python*; yet *h* sometimes, and so in this place, it denoteth the praises in general of all the Gods. Again, the phrase intimateth an elevation of the voice in singing, with a kind of rising from one note to another. Thus *Turnebus* maketh παιανίζειν, and μινυρίζειν to be opposite, *i Videtur autem Pæan contentionis vocis esse, minuritio remissionis.*

g Cæl. Rhod. antiq. l. 7. c. 5.
h Servius in Æn. lib. 6.
i Turneb. adv. l. 1. c. 12.

CHAP. IX.

De ludis plebeiis, compitalitiis, Augustabilibus Palatinis, Taurilibus, & Votivis.

OTher Games there were performed in the honour of the Gods, which are rather named by Authors then explained, they are these that follow; *Plebeii ludi*, *k* which were celebrated in memory of the liberty procured to the *Roman* state, by the succession of Consuls in the place of Kings: or as others say, in memory of the reconciliation, wrought between the Senators, and the Commonalty, by reason of their great oppression at that time, when the *Commons* in a kind of mutiny, departed to the *Aventine* Mount. 2. *Compitalii Ludi*, so called, because they were usually solemnized in *Competis* (*id est*) in the cross wayes, and open streets, *l* they were first ordained by *Servius Tullius*, in the honour of those Gods, whom they termed *Lares*, in memory of his nativity. The form of words used by the *Prætor*, when he signified to the people the time of these solemnities, was as followeth. *m Die noni post Calendas Januarii Quiritibus compitalia erunt.* Concerning which words, *Gellius* noteth, *Die noni*

k Alex. ab Alex. l. 6. c. 19.
l Plin. lib. 36. cap. ult.
m Macrob. l. 1. Satur.

n A. Gel. noct. Att. l. 10. c. 24.

ni Prætor dicit, non die nono, neq; Prætor ſolum, ſed plæraq; omnis vetuſtas ſic locuta eſt. 3. *Auguſtales ludi*, performed in the honour of *Auguſtus Cæſar*. 4. *Palatini ludi*, ſo named, becauſe they were performed in the *Palatine* Mount. Some are of opinion, that they were inſtituted in the honour of *o Julius Cæſar*; others in the honour *p* of *Auguſtus*. 5. *Taurii ludi*, which received their name from *Taurus*, a Bull: They were firſt ordained by *q Tarquinius ſuperbus*, when there hapned a great Peſtilence amongſt the women with child, occaſioned by much Bull-fleſh ſold unto the people; for the removal of which Plague, theſe Games were inſtituted, in the honour of the infernal Gods. They are ſometimes alſo called *Boalia*, *& Bupetii*. 6. To thoſe may we add their *Votivos ludos*, which were alſo performed in the honour of ſome God, upon ſome ſpecial vow made; For whenſoever the *Romans* did undertake any deſperate war, then did ſome *Roman* Magiſtrate *Vovère ludos, vel templa*, conditionally that they got the conqueſt; whiles the Magiſtrate uttered this his vow, he was ſaid, *Vota nuncupare*, or *facere vota*, (*id eſt*, to make a ſolemn vow unto the Gods; the vow being thus made, he which made it, did write it in paper, and with wax faſtened it to the knees of their Gods, thereby binding himſelf the more ſtrongly to the performance; and this in *Pliny's* Phraſe is, *ſignare vota*, *Juvenal* tearmeth it,

o Alex. ab Alex. l. 6. c. 19.

p lib. 56. cap. ult.

q Feſt. vid. Hoſpin. de orig. feſt.

r Turneb. adver. l. 1. c. 17.

Genua incerare deorum, *Satyr.* 10.

After this, he was ſaid to be *Voti reus*, *id eſt*, conditionally bound and obliged to the performance thereof, ſo that the Gods might challenge the thing vowed as due debt, if they granted his requeſt, yea after that, the thing craved had been obtained, then was he ſaid, *Damnatus voti*, *vel voto* (*id eſt*) ſimply bound to the performance of the vow, ſo that by conſequence, *Damnari voti*, *vel voto*, is to have ones deſire accompliſhed. Thus have we gone over the chief and principal Games, which were meerly *Sacri*, tending to Religion; the ſecond ſort were, *Ludi honorarii*, of which in the next Chapter.

CAP.

CAP. X.

De Gladiatura.

Such Sports and Playes, which were performed by private men upon their own purſe and charges, they ſeeking thereby to wind themſelves into the affections of the common people, and to make way for their own preferment and honour, were termed *a Ludi honorarii*, and howſoever any Game or ſhew might be tendred unto the people in this reſpect, yet thoſe of this nature, were for moſt part, either *Fencing*, or *Stage-Playes: Fencing*, becauſe the ſight thereof was ſo often freely beſtowed upon the people, is therefore many times denoted by the latine word, *b Munus*; and thoſe that beſtow theſe ſights, are for the ſame reaſon tearmed *Munerarii*. The firſt original of this fencing, and ſword-playing, to the killing of one another, hath been derived *c* from a cuſtomary practiſe among the Heathens, at the burials of their friends, who being perſwaded that the ſhedding of mans blood would be propitiatory for the ſoul deceaſed, hence would they buy captives and ſlaves, purpoſely to be ſacrificed at burials: afterward that this wicked ſpectacle might be the more pleaſant and delightfull, they changed their ſacrifice into a fencing with Art, where the combatants did fight for their life. This particular kind of *Fencers* were called *Buſtuarii*, from *buſtum*, the place where dead mens bodies were burned; but Ambition and Cruelty, made theſe bloody ſpectacles in after ages more frequent, inſomuch that prizes at laſt were plaid, not only at the Tombs, but in divers other places, as the *Cirque* and *Amphitheatre*, *&c.* Yea, they were given as Legacies by Will and Teſtament unto the people; the prizes have continued many days together, and the number of the Combatants ſometimes exceeded number. At the firſt none would thus hazzard their lives, but captives and fugitive ſervants, which were enforced

a Iſaac. Caſaubon. in Suet. Aug. 32.

b Lipſ. Sat. l. 1. cap. 7.

c Tertul. It. Servius in Æneid. 10.

ced thereunto, being bought for that purpose, afterward those that were free-born suffered themselves to be hired, for which cause they were termed *Auctorati* hirelings; *d* yea Noble Men themselves sometimes by reason of their decayed estates; sometimes to demerit the Emperour his love, endangered their lives in this fight, those that were hired, bound themselves by a solemn oath to fight unto death, or else they would yield their bodies to be whipt, yea and to be burnt; unto which *e Horace* alludeth:

d Sen. ep. 100.

e Serm. 27.

Quid refert, uri, virgis ferroq; necari
Auctoratus eas? an turpi clausus in arcâ?

The manner of this bloody spectacle was thus, the Master, or exhibiter thereof, did by a publick bill, give notice unto the people, what day the prize should be performed, how many couples were to combat, what their names, *&c.* thereby to procure the greater expectation and concourse of people, of this speaketh *f Sueton*, *Munus populo pronunciavit in filiæ memoriam.* *g* Yea they did in tables hanged in publique view, paint and represent, not only the description of the place, but also the very form and gesture of the Fencers.

f Sueton. in Iulio.

g Plin. 35. 7.

——*velut si*
Revera pugnent, feriant, vitent q; moventes
Arma viri. Horat. lib. 2. Sat. 7.

Upon the day appointed when all met, then were the weapons brought forth, and those, they were of two sorts: *Lusoria*, or *Exercitoria tela*, such as wear the spear, and wands, or cudgells, that they might tosse the one, and fence with the other, and shew other feats of activity, all being but preparations to that more solemn and dangerous fight ensuing. The Greeks calleth them ἐσφαιρωμένα ἀκόντια, because of the little balls tied to the sharp end of the weapons, to prevent dangers. Others were *h Decretoria tela*, so called *Quia hæc velut decreto Prætoris, sive Editoris dabantur.* These were those, with which they really encounter'd each other for life or death, and therefore sometimes they are called *Pugnatoria*, *i Seneca* speaketh

h Lipſ. Sat. l. 2 cap. 19.

i Senec. epiſt. 117.

eth of both, *Remove iſta luſoria arma, decretoriis opus eſt.* And that the Apoſtle doth not allude to both, I dare not gain-ſay, 1 *Cor.* 9. 26, 27. where he ſaith, οὕτω πυκτεύω ὡς οὐκ ἀέρα δέρων, ἀλλὰ ὑπωπιάζω μου τὸ σῶμα. He did not beat the ayre, and flouriſh with thoſe luſorious, and preparatory weapons, but he did truly fight againſt his natural corruption, to the wounding and ſubduing of it; for *k* ſo ὑπώπια ſignifieth *patrified wounds.* That phraſe of *l Seneca*'s alluding to the fore-flouriſhings, is not much unlike. *Aliud eſt ventilare, aliud pugnare.* This fore skirmiſh with cudgells was properly termed *præludium: Megara* ſpeaking of *Hercules* his Conqueſt over the two Serpents, aſſaulting him, being yet an Infant, ſaith, *m Præluſit Hydræ, id eſt,* that Combat was but the Prologue, Preface, or Introduction to that greater, which ſhould enſue between him and the *Hydra.* Afterward when they betook themſelves to naked weapons, and to a real fight, then were they ſaid *Dimicare ad certum,* and *Verſis armis pugnare.* This word *n Verſis* being put for *Tranſmutatis.* In the act of fighting, they did frame and compoſe their body according to the Rules of their art, for the better warding of themſelves, and the readier wounding of their adverſary. This frame and poſture of the body, was by a peculiar name called *Status,* or *Gradus.* Whence aroſe thoſe Elegant Metaphors, *Cedere de gradu, Demigare de gradu*: To change ones purpoſe, and as it were, to draw back from what he formerly intended. In like manner we ſay, *De mentis ſiatu dejicitur,* or *deturbatur*; He is driven to change his mind, or in general he is amazed. In the conflict oftentimes, the ſword-players after they had received any dangerous wounds, laid down the weapons, which though in extremity, was a token of cowardiſe, neither were they thereupon acquitted or diſcharged; but this depended upon the conſent either of the Emperour, or the people, or the Maſter of the ſhew. This diſcharge was properly called *Miſſio.* Such was the cruelty of thoſe times, that many prizes were proclaimed, wherein they ſore-ſignified,

k Suid. in voce. ὑπώπια

l Sen. l. 3. cont

m Sen. Herc. fur. verſ. 231.

u Lipſ. Sat. l. 2. cap. 19.

ed, that ſuch diſcharges ſhould neither be craved, nor granted: whereupon *o Auguſtus Cæſar* made a decree, wherein *Gladiatores ſine miſſione edi prohibuit*. Thoſe Combatants that overcame, received by way of reward, ſometimes Money, ſometimes a Garland, or Coronet of Palm-tree, wound about with certain wollen ribbands, called *Lemniſci*; the Coronet it ſelf was therefore called *p Palma lemniſcata*, and hence figuratively hath *Palma* been tranſlated to ſignifie the Victory it ſelf, and ſuch a man as hath often gotten the prize, we ſay proverbially, that he is, *Plurimarum palmarum homo*. The reaſon why the Palm-tree, rather then any other tree, ſhould be given in token of Victory, is rendred by *q* diverſe approved Authors to be this; becauſe the Palm tree, though you put never ſo ponderous and heavy weight upon it, yet it will not yield, but rather endeavour the more upward. Sometimes the reward given by the people, was one of thoſe wands, or cudgels uſed in the fore-skirmiſh. That wand was properly called *Rudis*, and it was given in token of liberty, ſignifying thereby, that he ſhould thence forward lead his life from ſhedding of blood, alluding to which cuſtom, this word *r Rudis* hath been uſed to ſignifie any other kind of freedom or diſcharge. Whereupon, *Horace* ſaid of himſelf, that he was *Rude donatus*, *id eſt*, diſcharged from his pains in poetry. Laſtly, ſometimes he that conquered, received *Pileum*, a Cap: And here it will not be amiſs, to note the difference between *Palmo*, *Miſſio*, *Rudis*, and *Pileus*. *Palma*, was onely a token of Victory, not of Liberty or Diſcharge. *Miſſio* was not full diſcharge, but a kind of vacation, or reſpite granted upon requeſt, untill the morrow, or ſome other time. Again, it was granted to thoſe that were Conquered, not to the Conquerers. *Rudis* was a token of full diſcharge from bloody Combats, whereby a mans life might be endangered; but yet with this diſtinction, that if it were beſtowed upon free Citizens, hired to be Actors in theſe Maſteries, then were they thereby reſtored to their free-

dome

o Suet. Aug. 49.

p Franv. Sylc. in orat. pro Sect. Roſc.

q Ariſt. prob. 7. Plut. ſymp. 8. q. 4. Alex. Gel. l. 3. c. 6.

r Eraſ. adag. Rudem accip.

dom alſo, which formerly they forefeited by undertaking ſuch baſe conditions: to others which were formerly ſervants, or captives, it was only a token of liberty and diſcharge. Notwithſtanding, ſometimes upon favour ſuch ſervants or captives obtained together with their diſcharge from ſuch fights a priviledge alſo of enfranchiſement, whereby they were thence-forward incorporated amongſt free Citizens; the token hereof was *Pileus*, for then they received a Cap; which latter obſervation helpeth for the underſtanding of *Tertullian*, where he ſaith, ſ *Qui inſigniori cuiq; homicidæ leonem poſcit, idem gladiatori atroci petat rudem, & pileum premium conferat.* In which ſpeech the unjuſt and unreaſonable practice of thoſe heathens is diſplayed whilſt they judge a manſlayer to be expoſed to Lions and wilde beaſts, and yet notwithſtanding will reward the bloodineſs of ſword-players. Theſe Fencers fought with divers manner of Weapons, and accordingly had ſeveral names, the chief of which we read are theſe: 1. *Retiarii*, ſo called from *retejaculum*, ſignifying a float-net uſed in fiſhing, becauſe this ſort of Fencers did fight with a caſt-net in one hand, to catch and claſpe about their adverſaries head; and a three-forked engine in the other, which they uſed inſtead of a ſword: of this *Juvenal* ſpeaketh, *Sat.* 8.

ſ Tertul. de ſpect. c. 21.

——— *Movet ecce tridentum.*

They did alwayes fight in their coats: whence the Epitheton floweth *retiarii tunicati*. The reaſon why they bore up and down Sponges, which *Tertullian* calleth *ſpongias retiariorum*, may be for the drying up of the blood, and wiping or ſtopping of the wounds, which uſe of Sponges, t *Pliny* noteth. Now becauſe theſe *Retiarii* were ſo lightly armed, they were compelled every time they ſtrook with their net, to retire back until they recovered their net again; and hence the ſecond ſort of Fencers which fought with them, were termed u *Secutores*, *ab inſequendo*, from following and purſuing theſe *Retiarii*. The weapons wherewith theſe *Secu-*

t Plin. lib. 31. cap. 11.

u Lipſ Sat. 2. cap. 7.

tores did fight, were a Target, to keep off the net of the adversary; a sword and an helmet. 3. *Thraces* so called from the *Thracian* Weapons which they used; their Target was round and little, called *Parma*: it was at first in use among the * *Thracians*, and afterward so proper to this sort of sword-players that, *x Parmularius* signifyeth such a one as favoured this company or faction of Fencers. Their sword was a crooked Falchion, termed by them *Sica*. The *Roman* Souldiers did use to wear two of these, a long one on the left side, and a shorter on the right side, answerable to our sword and dagger, but the form of the *Sica* was alwayes crooked, according to that, *Sica* θρακικὸν ξίφος ἐπίκαμπες. Privy murtherers practising the killing of men, may seem to have used the lesser, as a pocket dagger, such are those *Sacarii*, of which there is such often mention in *Tully*. 4. *Myrmillones*, they are sometimes called *Galli*, because they were appointed after the manner of the *Gauls*. Their weapons were a Sword, a Target, an Helmet with a crest in form of a fish. 5. *Hoplomachi*, the name imports them to be armed in their fight, it is derived from the Greek ὅπλον *vel* ὅπλα *arma*, & μάχομαι *pugno*: untill *Augustus* his time they were named *Samnites*; their armour was an helmet with a tuft on the crest, a sword, a shield, and a boot on the left leg. 6. *Provocatores*, sometimes called *Probactores*, these usually fought with the *Hoplomachi*; their armour was a sword, a target, an helmet, and boots on both legs. For as the footmen amongst the souldiers, so likewise some of the sword-players used boots, for the safe-guard of their legs; these boots were made of * Iron, and so common amongst the Grecians in War, that boots alone are oftentimes put to express the Grecians whole Armature, as appeareth by that usual Epitheton in *Homer*, εὐκνήμιδες Ἀχαιοὶ i.e. *Bene ocreati Græci*; these boots they wore sometimes on both legs, sometimes on one, according as the manner of fight required. 7 *Essedarii*, such as fought 8 eagainst another out of waggons, so called from *Esse-*

* Turneb. adv. l. 5. c. 10.
x Suet. in Domit. c. 10.
y Alex. ab Alex. l. 6. c. 22.

* Veget. Vide Lip de milit. l. 3. dia. 7.

dum

dum, a waggon or chariot. 8. *Andabatæ, quasi* ἀναβαταὶ *ascensores*, because they did fight on horse-back, or out of chariots. This sort of fencers did fight winking, whence ariseth that adage, *Andabatarum more pugnare*; the phrase is fitly used, when two ignorant persons are hot in contention about that which neither understandeth. 9. *Dimachærii*, called also *Orbelæ*, they fought each against the other, with two swords apeice, as the first name importeth. 10. *Laquearii*, such as fought with swords and halters, the use of the halters was the same as the *Retiarii* made of their nets, to cast about their adversaries neck or arm, that they might the easier wound them with their sword. Of all these sorts of fencers *l Lipsius* treateth largely, to whom I refer the Reader. Only here let him take notice, that it was in the power of the people to discharge, any of these Combatants in time of the fight, which discharge they signified *premendo pollicem*, by holding down their thumb, or else to adjudge him to continue the fight, though in never so great danger, and this latter they signified *convertendo pollicem*, by turning up the thumb;

l Lisp. Sat. 2.

——*Et verso pollice vulgi*
Quemlibet occidunt populariter.——*Juven. Sat.* 3

Moreover, that there might be alwayes in readiness a sufficient number of sword-players, hence were there schools erected, into which captives, fugitive servants, and notorious offenders, were sometimes condemned, sometimes sold. The masters of these schooles were called *Lanistæ*, the schollers or under-fencers, trained up there for more publick and dangerous fights, were called *Familiæ*. The word *Familia* is often taken in this sense, to signifie the whole company of under fencers, belonging to one school, and the master of defence, is for this reason, more than once by *m Sueton* called *Pater familias*. Moreover, when one challenged another to these combats, they signified their challenge by beckening with their little finger. *Horace* alludeth unto this.

m Suet. Calig. 25. It in Domit. 10.

Criſpinus minimo me provocat, accipe ſi vis
Accipe jam tabulas. Lib. 1. *Serm.* 4.

This muſt be underſtood of a beckening, and that with the little finger: for otherwiſe in time of the fight, if either of the combatants did hold up his finger, *n* he ſignified thereby that he did yield, and give place unto his adverſary; ſome think that *Perſius* had reſpect unto this cuſtom, in that phraſe

n Alex. a b Alex. l. 4. c. 26.

——— *Digitum exere peccas, Sat.* 5.

CAP. 11.
De ludis Scenicis.

THe ſecond ſort of Playes beſtowed on the people for their favour, were *Ludi Scenici*, Stage-plays. The reaſon of this name *ſcena* may be ſeen before. * The firſt inſtitution of them was occaſioned by reaſon of a great ſickneſs which by no medicinary help could be removed; The *Romans* ſuperſtitiouſly conceiting, that ſome new games or ſports being found out, the wrath of the Gods would thereby be unarmed. *y* Whereupon, about the four hundredth year after the building of *Rome*, they ſent for certain Stage-players out of *Hetruria*, which they called *Hiſtriones*, from the *Hetrurian* word *Hiſter* which ſignifieth ſuch a player. *Quia Hiſter Thuſco verbo ludus appellatur, id nomen Hiſtrionibus eſt inditum, Polydor. de inven. l.* 3. *c.* 13. Concerning the divers kinds of Stage-plays, I read of four called by the Grecians, *Mimicæ*, *Satyræ*, *Tragœdiæ*, *Comœdiæ*; by the Romans *Planipedes*, *atrellanæ*, *Prætextatæ*, *Tabernariæ*; In Engliſh *Fables*, *Mimical*, *Satyrical*, *Tragical*, *Comical*. Theſe *Mimical* players did much reſemble the Clown in many of our Engliſh ſtage-plays, who ſometimes would go a tip-toe in deriſion of the mincing dames; ſometimes would ſpeak full mouthed to mock the Country Clowns; ſometimes upon the tip of their tongue to ſcoff the Citizen. And thus, by the imitation of all ridiculous geſtures or ſpeeches, in all kinds

* Lazius. de Repub. Rom. l. 10. c. 11.

y Alex. Gen. dier. l. 6. c. 19.

kinds of vocations, they provoked laughter; whence both the Plays and Players were named *Mimi*, from μῖμος an imitator, or one that doth Ape-like counterfeit others; as likewise they were called *Planipides*, because the Actors did enter upon the Stage *planis pedibus*, i. e. *z Excalceati*, barefooted. The second sort of Playes were called *Satyræ*, *a* from the lascivious and wanton country Gods called *Satyri*, because the Actors in the *Satyrical* Plays did use many obscene Poems, and unchast gestures, to delight their spectators. After these kind of Actors, as we may conjecture, did assume such liberty unto themselves, that they did freely and without controlement sharpely tax and censure the vices even of Kings as well as of the Commons, insomuch that now we call every witty Poem, wherein the lives and manners of men are sharply taxed, *A Satyre*, or *Satyrical* Poem. *b Satyra mordax fuit & salsum genus carminis.* These Satyrical Plays were also called *Atellanæ*, from the City *Atella* in *Campania*, where they were often acted. The third sort of Stage Playes were called *Tragœdiæ* from τράγος a Goat, and ᾠδή, an Ode or Song, because the Actors thereof had a Goat given them as a reward. And likewise they were called *Prætextatæ* from *prætexta*, a certain Roman Robe, which these Actors did use to wear in their Plays. The fourth sort were *Comœdiæ*, κῶμαι which signifieth villages, and ᾠδή, because these kind of Actors did go up and down the Country, acting these *Comedies* in the Villages as they passed along. They were likewise called *Tabernarii à tabulis*, i. e. from the boards or pentices wherewith they were sheltered from the weather whilst they were acting. These two last sort of playes, namely, *Tragedies* and *Comedies*, being still in use among us, it will be worth our labour to consider the communities wherein they agree; otherwise the properties or notes of distinction by which they differ. I find three sorts of parts, wherein they agree, namely *partes primarii*, *accessoriæ circumstantes*; parts principal, accessory, and circumstances

z Alex. ibid

a Antesign in suis obser. demetris Comicis Ter. præfixis.

b Vid. Eras. adag. Κωμῳδεῖ θεὸς σατυρικόν.

cumſtances, which are not ſo truely parts as accidential ornaments added to beautifie the Playes. The principal parts are four in reſpect of the matter treated of; for as far as the declaration or expoſition of the matter in hand reacheth, without intimation of the event to enſue, ſo far reacheth the firſt part called πρότασις, which word ſignifieth no more than a propoſition or declaration. But when the Play inclineth to its heat and trouble, then enſueth the ſecond part called ἐπίτασις, which ſignifieth the intention or exaggeration of matters. The third part is called κατάστασις, *i.e.* the ſtate and full vigour of the Play. The laſt part, which is an unexpected change into a ſudden tranquility and quietneſs, is ſo called κατασροφή; whence by a *metaphor* it hath been tranſlated to ſignifie the end or period of any other thing, or rather the inclination unto the end, as *vitæ humanæ cataſtrophe*, the end of a mans life. In reſpect of the Players forſaking the Stage, the parts were five, namely the five Acts. For the Actors did five times in every *Comedy* and *Tragedy* forſake the ſtage, and make as it were ſo many interruptions. The occaſion whereof is ſuppoſed to have been this, that the Spectators might not be wearied out with a continued diſcourſe or action, but that they might ſometimes be delighted with variety intermixed. For thoſe breaches and chaſms between each Act, were made up and ſupplyed, either by the *Chorus*, or *Muſick*. Where we muſt note, that every *Tragedy* and *Comedy* muſt have five *Acts* and no more, according to that of *Horace*:

Neve minor quinto, neu ſit productior actu
Fabula,——

Again we muſt remember, that it is not neceſſary that the πρότασις ſhould alwayes be contained in the firſt act, though many times it happeneth ſo; for in *Plautus* his *Bragging Souldier*, the *Protaſis* is found in the ſecond Act: and ſo likewiſe have the other three parts, *i. e. Epitaſis*, *Cataſtaſis*, and *Cataſtrophe*, their bounds unbounded.

Theſe

These Acts are divided into several Scenes, which sometimes fall out more, sometimes fewer in every act. The definition of a Scene being *c Mutatio personarum*: whence we call a subtile *Gnatho*, which can humour himself to all persons and times, *Omnium scenarum homo*, a man fit for all parts. Now among the Romans it was thought unfit, that above three persons should come on the stage in one Scene. c Vid. Æl. Alag.

——*Nec quarta loqui persona laborat.* Hor.

The *partes accessoriæ* in a *Comedy* are four: *Argumentum*, *Prologus*, *Chorus*, and *Mimus*. The first is the matter or subject of the Comedy. The second is the Prologue; which is either ἐισοδικὸς, such as doth open the state of the Fable, at which time there needeth no argument; or else συστατικὸς, such as commendeth the Fable, or the Poet, unto the people; or lastly ἀναιρετικὸς, such as shall refute the objections and cavils of adversaries. The third is *Chorus*, which speaketh between each act; and this *Chorus* may consist either of one, or many speakers, and that either male or female; *d* but with this caution, that if a male be to be condemned, then must the *Chorus* consist of males: if a femal be to be condemned, then must it consist of females. And alwayes whatsoever the *Chorus* speaketh, it must be pertinent to the Act past, or covertly intimating somewhat ensuing. d Rosin. ant. cap. de trag. & com. l. 5.

——*Non quid medios, intercinat actus,*
Quod non proposito conducat & hæreat apte. Hor.

It may seem sometimes that in the midst of the Play some other sport was interposed, as hunting, or fencing, or such like, to delight the spectators with the greater variety: whence *Hor.*

Si discordet eques, media inter carmina poscunt
Aut ursum, aut pugiles.——

These interposed varieties were denoted by the name of *Diludia*; *Displicet iste locus, clamo, & Diludia posco*, Hor. The fourth and last accessory part was *Mimus* the Clown or Fool of the play. Of all these parts a Tragedy hath only

only a *Chorus*. The *partes circumſtantes*, or accidential ornaments, were four, common to both, *Titulus*, *Cantus*, *Saltatio*, *Apparatus*, *i. e.* The title of the Play, Muſick, Dancing, and the beautifying of the Scene. By the Sence in this place, I underſtand the partition between the Players veſtry, and the Stage or Scaffold. This partition at the acting of a Tragedy was underpropped with ſtately columns and pillars, and beautified with paintings reſembling Princely buildings, and the Images as well of Gods as Kings. At the acting of a Comedy, Country Cottages and private buildings were painted in the outface of the partition. In the *Satyrical* Playes the painting was overrun with ſhadowes of Mountains and Woods: The *e* firſt of theſe partitions they called *Scenam Tragicam*, the ſecond *Comicam*, the third *Satyricam*. The differences between a *Tragedy* and a *Comedy*, which may be collected out of *f Anteſignanus*, are theſe: firſt, in reſpect of the matter, becauſe a *Tragedy* treateth of exilements, murthers, matter, of grief, *&c.* a *Comedy* of love-toyes, merry fictions, and petty matters, the one being θεῶν ἀεισοχή; the other πύκνος ἀεισοχή. In a Tragedy the greateſt part of the actors are Kings and Noble perſons; in a Comedy private perſons of meaner ſtate and condition. The ſubject of a Comedy is often feigned, but of a Tragedy it is commonly true, and once really performed. The beginning of a Tragedy is calm and quiet, the end fearful and turbulent; but in a *Comedy* contrarily the beginning is turbulent, and the end calm. Another difference which *Anteſignanus* hath omitted, is behoveful for us to know, namely, that the *Tragedians* did wear upon the ſtage a certain ſhoe, coming half way up the leg in manner of buskins, which kind of ſhoe was called by them *Cothurnus*, and from that cuſtome it hath been occaſioned, that *Cothurnus* is tranſlated to ſignifie *a Tragical* and ſtately ſtile, as *Sophocleo digna Cothurna*, matters beſeeming *Sophocles* his ſtyle; and ſometimes a Tragedy it ſelf. The Comedians did uſe an high ſhoe coming up above

e Alex. Gendier. l. 5. c. 16.

f Anteſig. in ſuis obſer. demetris Comicis. / Terent. præfixis.

Nigris med ũ impediit crus Pellibus. Horat. Ser. l. 1. Sir. 6.

above the ankle, much like a kind of ſhooes which plowmen uſe to wear to keep themſelves out of the dirt. This kind of ſhoe is called *Soccus*, by which word ſometimes alſo is ſignified a Comedy, as

Hunc ſocci cepere pedem grandeſq; Cothurni. Hor.

g All theſe ſorts of Stage-plays, both *Mimical, Satyrical, Tragical* and *Comical*, if they were acted according to the Grecian rite and cuſtome, then were they called *Palliatæ* from *Pallium*, a certain Mantle which the Grecians did uſe to wear; if according to the Roman manner, then were they called from the Roman gown *Togatæ*. g Anteſig. ib.

CAP. 12.

De Trojano ludo, ſive Troja.

IT was a cuſtome among the Romans, ſome times in the year to have a general muſter of the younger ſort, who meeting in the Cirque, exerciſed there running, racing, riding at tilt, and other ſuch like feats of activity, whereby they might be trained up for their better ſervice in the War. They choſe a Captain, one or other of noble birth: he was called *a Princeps juventutis*. They divided themſelves into diſtinct companies, ſometimes marching forward, one againſt another, ſometimes retireing backward, ſometimes skirmiſhing, ſometimes imbattelling themſelves in one form, ſometimes in another, as if it were a true field pitcht. A large and full deſcription hereof we have in *Virg. Æn.* 5. This game was called *Trojanus ludus*, or ſimply *d Troja*, without the addition of any word, becauſe *Aſcanius*, *Æneas* his Son, firſt brought it out of *Troy*, according to that of *Virgil* in the fore-quoted place. a Hoſp. de orig feſt. d Sueton. in Julio. c. 39.

Hunc morem, curſus, atq; hæc certamina primus
Aſcanius, longam muris cum cingeret Albam,
Retulit, & priſcos docuit celebrare Latinos.

Among other ſports uſed at this time, e there was alſo a kind of Mauriſk-dance, wherein the younger men danc- e Alex. ab. Alex l. 6. c. 19.

ced in harneſs, after a warlike manner, being thereby trained to exerciſe all parts of their body, by ſundry geſtures, as well to avoid all venues and defend themſelves, as to annoy and offend the enemy. This kind of dance is generally called *Pyrrhica ſaltatio*, becauſe it was invented by *f Pyrrhus*. Yea, *g* ſome ſay, that *Suetonius*, taketh *Trojanus ludus*, and this *Pyrrhica ſaltatio*, for one and the ſame thing. Nay *Alexander* confoundeth both theſe, with thoſe other games termed *Juveniles ludi*. But doubtleſs herein he was miſtaken; for thoſe *Juvenilia* were inſtituted by *h Nero* at the ſhaving of his beard, and had not their name, becauſe young men were the chief Actors, but becauſe old men would now by the practice of youthful ſports, turn young again. The actions at this time were ſo far from favoring of military diſcipline, that on the contrary, they were for the moſt part effeminate and wanton.

f Plin. l. 7. c. 56
g Serv. in l. 5. Æn. *h* Alex. ab Alex. loco. ſupra. caito.

h Suet. in Neron. c. 11. *i* Cœl. Rhod. l. 19. c. 22. *j* Roſin. Rom. ant. 5. c. 22.

CAP. 13.

De teſſeris, talis, & latrunculis.

BEfore we treat of the game called *Ludus teſſerarius* it will not be amiſs, 1. to clear the word *teſſera* from all ambiguity. The word hath four remarkable ſignifications, all alluding to matters of antiquity. Firſt, it ſignified a watch-word among the ſouldiers in the camp, whereby they diſcerned their enemies, or ſpies, from their own fellows. *o Alex. ab Alexandro* giveth many examples hereof: *Auguſtus Cæſar* in his camp gave for his watch-word *Venus genetrix*; *Pompeius magnus* gave for his, *Hercules invictus*, &c. and this was called *Teſſera militaris*. Secondly, there was *Teſſera frumentaria*, a certain ticket or token given by the Magiſtrate unto the poor, at the tendring whereof, *p* at the beginning of every month, certain doles, and meaſures of corn were given; it is evident that at firſt there were ſuch monthly diſtributions of corn, even by that endeavour of

o Alex. ab Alex. l. 4. c. 2.

p Suet. Aug. c. 40.

Auguſtus,

Auguſtus, who for the avoyding of trouble, would have reduced all to three ſet diſtributions in the year, but prevailed not; ſometimes inſtead of corn, or haply over and above the corn, there were at certain times, doles of money given to the poor, which dole whoſoever received, rendred his token or bill of exchange, termed *Teſſera nummaria*; theſe two laſt acceptions, though they may be diſtinguiſhed, yet becauſe they both tended to the relief of the poor, I have joyned them together. 3. there was *Teſſera hoſpitalis*, a certain token of wood, or ſuch like matter, which uſually was cut in two by thoſe who had engaged themſelves mutually to entertain each other, whenſoever entertainment ſhould be craved; yea this wooden ticket or tally being mutually accepted, it was lawful for their poſterity bringing this token, to challenge hoſpitality. Thus he in *Plautus* having formerly uſed *Antidomus* as his hoſt, after *Antidomus* his death, he cometh unto *Antidomus* his adopted Son, not doubting of entertainment; for ſaith he, *Deum hoſpitalem, ac teſſeram mecum fero.* Hence from this cuſtome, or tendring a token when hoſpitality ſhould be craved, that adage hath been derived, *Teſſerum hoſpitii confregit*, i. e. he hath broken the league of hoſpitallity. Laſtly, *Teſſera* ſignifieth a *Die*: where we muſt note that the word *Alea*, which commonly is tranſlated a Die, is a general word, applyed equally both to the *Teſſeræ* and the *Tali*, to denote the uncertainty of both games. *Teſſera* properly ſignifieth a Die; *Talus*, an huckle-bone, ſuch wherewith children play at *Cockall*. In determining the ſeveral chances in theſe playes, Authors are not only diverſe, but in many things contrary each to other, neither can any certainty be gathered from their writings; whether my conjectures, drawn from comparing their ſeveral and contrary writings, may give light for the right underſtanding of decayed knowledg herein, I ſhall willingly ſubmit my ſelf to the cenſure of the judicious. The ſeveral chances which I read of are theſe,

some arising from the number of the points of the Dye, as *Senio*, *Monas*. More usually among the Grecians *q* these two were termed Κῶος, & χίος ὃ μὲν γὰρ χίος ἐδύνατο ἓν, ὃ δὲ Κῶος ἕξ, i. e. *Chius*, answered our *Ace*: *Chous* our *Sice*. And this is confirmed by a proverb in use among the *Grecians* Κῶος πρὸς χίον, which the learned interpret to be a comparison of unequals, a Pygmie with a Gyant; others named from the number, I read not of. Perhaps they played not with a single Die, but with three, as we use in *Passage*, whence their chances might have their name, not from the number of points in each several Dye, but from them all being cast. But that the *Tesseræ* had points in them, appeareth by the testimony of *a Turnebnus*: And hence *Numeri* is sometimes used for *Tesseræ*;

Seu ludet numerosq; manu jactabit eburnos.
Ovid. 2. de Art. amand.

That they used more *Tali* in their playes, than they did *Tesseræ*, *b Turnebus* observeth from that verse,

Non sum talorum numero par tessera. Mart. 14. epig. 15.

c Cœlius Rhodiginus speaketh more distinctly, saying, that in their play they used three *Tesseræ*, but four *Tali*. These *Tali* were sometimes called *Vulturii*, as appeareth by the same *d Rhodiginus*, and likewise *Reguli*. The reason of both is rendred by *Turnebus*; he being of opinion that these *Tali* had not points in them as the *Tesseræ* saith, *pro numeris effigies animalium habebant, ut vulturum, aut regulorum*. That they were termed *Vulturii*, is probable by that of *Plautus*:

Tace parumper, jacit vulturios quatuor.
Plaut. Curcul. Act. 2. Sc. 3.

But that the Cockle-bones should be called *Reguli*, I somewhat doubt; for no question but *Regulus* and *Basilicus* in this place signifie one and the same thing, the one being the *Latine*, the other the *Greek* word; now *Basilicus*, as shall presently appear, signified the whole chance. So confused are the opinions of Authors here-

is

q Suid. in voce Κῶος.

a Turneb. adv. l. 5. c. 6.

b Turneb. adv. l. 6. c. 10.

c Cœl. Rhod. l. 20. c. 27.

d Cœl. Rhod. l. 20. c. 18.

e Turneb. adv. l. 5. c. 6.

in, that to assign the reason for every chances name, or to reduce every chance determinately, either to the *Tesseræ* or the *Tali*, I think it impossible. Only some may be thus reduced, and in general we may conceive probably which chances were fortunate, which unfortunate. The unfortunate chance in the *Tali*, was commonly called *Canis*, or *Canicula*, or *Chius*. The most fortunate chance, *Venus*, or *Basilicus*. *f Lipsius* taketh them both for one, and that not without ground, if we compare *Horace* and *Plautus*; both of them treating of that old custom of throwing these Cockle-bones at their feasts, for the choice of their *Modiperator*, or master of the feast, which should prescribe laws for drinking to the whole company.

f Lips. antiq. lect. l. 3. c. 1.

Venus arbitrium ——
Dicet bibendi. Saith *Horace.*
Jacto Basilicum, propino magnum poculum.

Saith *Plaut. Curcul.* And why may not this cast be justly termed *Basilicus*, seeing the *Modiperator* hereby designed, was by the Grecians not only called συμποσιαρχος, but also βασιλευς *King*, *Prince*, or chief commander at the table? This cast was then thought to be thrown, when all four Cockle-bones appeared not one like the other, but all with different faces. *g Venus consurgebat ex talis quatuor jactatis, ubi diversas omnes ostendissent faciem:* with whom accordeth *h Turnebus*; *Venus erat, cum nullus eodem vultu stabat talus. Hercules* was also a lucky throw, but whether the same as *Venus*, I have not yet learned.

g Cœl. Rhod. l. 20. c. 27.
h Turneb. adv. l. 5. c. 6.

The games with the *Tesseræ*, I make no question were divers: the ignorance of which, they being long since out of use, hath caused much obscurity in this matter: one game there may seem to have been in use where the just number of eight seemeth to have been the chief Cast; it was called *i Stesichorius jactus*, or *Stesichorius numerus*. The reason is rendred by *Rhodiginus*, because *Stesichorius* his tomb, erected at great charges for greater

i Cœl. Rhod. l. 20. c. 27.

ter magnificence, *Ex octonis conſtabat omnibus*, i. e. conſiſted of many eights: to wit, *eight angles*, or corners: *eight columns*: *eight ſteps*, or grieces. In their common game, the moſt fortunate throw is thought to have been three *Sices*; we call it in *Paſſage* a *Royal paſs*, whence it was commonly called *Senio*;

——*Quid dexter ſenio ferret*
Scire erat in votis, damnoſa canicula quantu
Redderet, auguſtæ collo non fallier orcæ, Perſ. Sat. 3

Which one place of *Perſius* giveth light to this in three things. Firſt, that the winning caſt was termed *Senio*: and if you make *Baſilicus* a term common both to Dice and Cockle-bone, as *Venus* is, we may fitly render it a *Royal paſs*. Secondly, the loſing caſt, *Canis*, or *Canicula* in Engliſh a *Dog-chance*. Thirdly, the manner of their play, both in their Dice and Cockle-bones, was by caſting them not immediately out of their hand, but out of a diſh or narrow-mouth'd veſſel, that there might be fair play, without ſtriking or cogging the Dye: this veſſel *Perſius* calleth *orca*, and deſcribeth it to have a narrow mouth, and a ſtraight neck. *Horace* applieth it to the *Tali*, *Satyr.* 7. *l.* 2.

Mitteret in Pyrgum talos——

Calling it *Pyrgus*, uſing the Greek word πύργος a Tower or Steeple, ſo called from πῦρ fire, becauſe the form thereof being *acuminata*, reſembleth the riſing of fire: the word intimateth *Horace* his *Pyrgus* to have been of the like form with *Perſius* his *Orca*. But to return to the game, the chief caſt as I ſaid was thought to be when three *Sices* appeared: which opinion is ſtrengthned by that common proverb, *Aut tres ſex, aut tres teſſeræ*, i.e. either three *Sices*, or three *Aces*. And the firſt of theſe being the beſt, the other the worſt chance in the Dice, the proverb implieth thus much, I will put all to the hazard, I will win or loſe all. This caſt was alſo called *Midas*, for as *Rhodiginus* ſpeaketh, *In teſſerario ludo Midas jactus*

jactus erat fortunatiſſimus; with whom accordeth *k Dempſter*, proving it out of *Suidas*:

k Dempſt. ant. Ant q. Rom. l. 5. c. 1

Μίδας ὁ ἐν κυβείαις εὐβουλότατος.

Midas in teſſeris conſultor optimus.

This name ſignifieth the beſt chance, yet was not appropriated to the *Teſſera*, but ſometimes alſo ſignified the fortunateſt chance of the *Tali*. Likewiſe from that of *Mart. l.* 13. 1.

Senio nec noſtrum cum cane quaſſat ebur.

It is noted by *l Eraſmus*, that as often as an *Ace* hapned to be thrown together with a *Sice*, ſo that *Senio* and *Canicula* appeared together at one throw, it was a loſing caſt. *Suetonius* is clear in the proof hereof, if for *Aut* we ſubſtitute *Et*, which unleſs we do, it will be a matter of great difficulty, to make a congruity of ſenſe. His words are, *Talis enim jactatis, ut quiſq; Canem aut Senionem miſerat in ſingulos talos, ſingulos denarios in medium conferrebat, quos tollebat univerſos qui Venerem jecerat.* Turn *Aut* into *Et*, the ſenſe is obvious. Look who threw an *Ace*, and *Sice* together, for every Dye he ſtaked and laid to ſtake a Dinere: which he took up and ſwooped all clean whoſe luck it was to throw *Venus*. *Euripides*, as I take it was not a chance, but a kind of game, much reſembling that which is in uſe with us, called *one and thirty*: The number of that game was *fourty*, and the game called *Euripides*, becauſe *Euripides* was one of the fourty chief Governours in *Athens*, when the thirty Tyrants were depoſed. The reaſon of my conjecture is taken from *n Rhodiginus*, whoſe words are theſe, *Euripides numerum continebat quadragenarium, quoniam videtur unus fuiſſe Euripides prefectorum quadraginta, poſt triginta Tyrannos Athenis exactos*: from all we may note, that the *Jactus pronus*, or *Jactus plenus*, that is, the lucky caſt, we may Engliſh it *Take all*, was commonly called, *Senio Venus*, *Cous*; the *Jactus ſupinus*, or *Jactus inanis*, was likewiſe commonly known by no other name than *Canis*, *Canicula*, or *Chius*, we may Engliſh it *Blank*.

l Eraſm. adag. Chius ad Cœum.

n Cœl. Rhod. l. 20. c. 17.

o Some have delivered their mind touching theſe plays, thus: that the *Tali*, or Cockle-bones, had but four faces or ſides, and therefore yielded four chances, and no more; the firſt is called *Canis*, or *Canicula*, anſwering to our *Ace*, and it was the worſt of all; the oppoſite unto it they term *Venus*, or *Cous*, and is accounted the beſt: *Merula* againſt ſenſe underſtandeth the number of ſeven by it; it may ſtand for our *Sice*. The third bore the name of *Chius*, proportioned to *Trey* with us; and the laſt *Senio*, which is as much as *Quatre*. For in theſe *Tali* there is no chance of *Deanr* or *Cinque*. This opinion at firſt I confeſs ſeemed plauſible to me; but how fully it diſcovereth the game, and how agreeable it is to antiquity, let others judge. The chances of the Dice, or Cockle-bones, as they were termed *Jactus & Miſſus*, caſts: ſo alſo were they called p *Manus*, figuratively, as every ſtroak in the fencing-ſchool was termed *Manus*. The firſt acception of *Manus* is proved out of q *Suetonius*, where *Auguſtus Cæſar* ſpeaketh thus, *Si quas manus remiſi cuiq; exegiſſem, aut retinuiſſem quod cuique donavi, viciſſem, &c. i. e.* If I had exacted thoſe chances which I remitted every one, and kept that which I beſtowed, I had gotten, *&c.* The ſecond acception of *Manus* is confirmed by r *Quintilian*, who calleth the ſecond, third, and fourth ſtroaks in fencing, *ſecundas, tertias, & quartas manus*. Our Engliſh phraſe is not much unlike; he hath had a good or bad, lucky, or unlucky hand. Another game there was of like nature played with Table-men: The word *Latrunculus* tranſlated a Table-man, did properly ſignifie an hired ſouldier, ſuch a one as ſerved for pay: whence *Latro*, whoſe diminutive *Latrunculus* is, hath his denomination ἀπὸ τῦ λατρέυειν, *à Serviendo*. In this ſence the word is uſed by ſ *Plautus*;

Nam Rex Seleucus me opere oravit maximo,
Ut ſibi latrones cogerem, & conſcriberem.

Secondly, becauſe ſouldiers are ſo prone and apt to commit robberies: hence *Latro*, and *Latrunculus*, hath been uſed

o Barthol. Merula in *Ovid.* de art. amand. l. 2.

p Liſp. Sat. l. 2. c. 20.

q Suet. Aug. 72.

r Quint. l. 5. c. 14.

ſ Plaut. Mil. glor. Act. 1. ſc. 1.

uſed alſo to ſignifie a thief or robber. And thirdly, in a borrowed ſenſe, theſe words are applied to ſignifie table-men, or cheſs-men; becauſe this game hath the expreſs form and repreſentation of a war or battle, fought between two armies; Inſomuch that *t Pyrrhus* King of *Epyre*, being skilful in plotting ſtratagems, firſt taught his ſouldiers that art of projecting, by plays and repreſentations thereof in the table-men. *u* Some are of opinion, that it was firſt invented in the ſiege of *Troy* *Palamedes*, who that he might keep his ſouldiers in better order, allowed them this kind of recreation, whence theſe cheſs-men are ſometimes called *Palamediaci calculi*: they were made ſometimes of wax, ſometimes of glaſs, ſometimes of other matter. The game ſeemeth to be the very ſame with that which we call *Cheſs*. Other games there were of leſſer note for recreation, of which ſort were principally theſe that follow; *Petaurum*, *Diſcus*, *Pila*, *Trocus*, *Nuces*, πέταυρον, from whence this Latine word *Petaurum* cometh, ſignifying properly a perch or pole, on which poultry rouſt: and hence the rope or ſtaff on which light perſons were wont to dance, and try maſteries, was termed *Petaurum*. It ſignified alſo a certain hoop, or wheel, through which active perſons would run ſwiftly, their body ſo warily carried, that in their running they would not touch the hoop or wheel: to this purpoſe *Alex Neop.* ſpeaketh, *Fuit a quoq; Petauri ludus admirationis præcipuæ, cum per circulos quiſpiam velociſſimo curſu tranſvolat, corpore ita librato, ut circulum non offendat*. Such tumblers as were practiſed in this kind of activity, were thence called *Petauriſtæ*. *Diſcus* was a round ſtone in manner of a bowl, ſometimes made of Iron, or Braſs; whoſoever could caſt it fartheſt got the victory; the players thereat were called δισκοβόλοι, from δίσκος and βάλλω to dart, or caſt out any thing. *Pila* ſignifieth a ball, and of it there were divers ſorts; 1. *Harpaſtum*; which we may Engliſh a *Foot-ball*. *b* This ball being put down in the middle, two companies of young men ſtrove who ſhould drive

t Donat. in Teren. Fun. Act. 4. ſc. 7 ad illud, Idem hoc jam Pyrrhus faciavit.

u Suid. in voce πάβλα.

a Alex ab Alex. l. 4. c. 25.

b Alex. ab Alex. ibid.

driveit thorow the others goal. 2. *Pila*, which ſignified a diſtinct kind of ball, ſo called from the hair with which it was ſtuffed. 3. *Follis*, a light kind of ball, ſo called becauſe it was ſtuffed with a bladder; with this old men and young children played. 4. *Paganica*; this had his name *à pagis*, from villages and Country Towns, where it was chiefly in uſe; it was ſtuffed with feathers; of all theſe *Mart.* 14. 45.

H æquæ difficilis turget paganica pluma,
Folle minus laxæ eſt, & minus arcta pila.

5. *Trigonalis*; and this I think both the *Pila* and the *Follis* were called, in oppoſition to the *Paganica*; the reaſon of the name is taken from the form of the Tennis-Courts, which becauſe they were three-ſquare in manner of a triangle, *c* hence was the ball with which they played in ſuch Courts termed *Trigonalis*. The players themſelves were termed *factores*; thoſe that did caſt the ball into the Court, were called ſimply *datores*; and *d* hence *datim ludere*, is to play at ball; or elſe we may imagine the reaſon of this phraſe to be, becauſe ſuch as in their play by negligence did let down the ball, did *ſuram dare*, hold out their leg, to have the ball flung at it. *Trochus*, it ſignifieth a top: as it was commonly called *Trochus*, from τρέχω to run, becauſe of the ſwiftneſs thereof: and likewiſe *Turbo* in Latine for the ſame reaſon; So ſometimes it was called *buxum*, from the matter whereof it was made, as

——*Buxum torquere flagello.* *Perſ.* Sat. 3.

Nuces, with nuts they had many plays, ſome of which are at this day in uſe. One holding an uncertain number of nuts in his hand, his fellow that plaid with him was to divine whether the number was *Even* or *Odd*. This *Horace* calleth

Ludere par impar ——

The Grecians ἄρτια ἢ περιττά. Of this *Ovid de nuce*,

Eſt etiam, par ſit numerus an quis dicat an impar,
Ut divinitas auferat augur opes.

Sometimes

c Cœl. Rhod. lib. 20. c. 18.

d Turneb. ad verſ. 7. c. 4.

Sometimes they piled their nuts, three beneath, and one on the top, in manner of a Caſtle: of this *Ovid* ſpeaketh likewiſe.

Quatuor in nucibus non amplius alea tota eſt,
Cum ſibi ſuppoſitis additur una tribus.

Yea, theſe nut games were ſo many, and ſo peculiar to children, that ſtriplings growing unto mans eſtate, were ſtill reputed children, untill they forſook theſe nut-ſports; whence *nucibus relictis* ſounds as much as childiſhneis being paſt; and this is thought to be the reaſon, why the *e* bride-man, as ſoon as he was married, uſed to caſt nuts among the people; intimating thereby a farewell to ſuch childiſh paſtimes. Many other childiſh games they had, among which one reſembleth our *Croſs and pile*; *f* they termed it *Capita vel navim*, becauſe the coyn which they fillipped or toſſed into the air, bore ſtamped on the one ſide *Janus* his two faces, on the other ſide a ſhip.

e Roſin. ant Rom. l. 5. c. 27.

f Anton. Conſtant. in Ov. Faſt. l. 1.

CAP. 14.

De menſis & conviviis Romanorum.

BEfore we proceed to the deſcription of the Roman tables, we will explain thoſe five termes, *Jentaculum*, *Pranaium*, *Merenda*, *Cœna*, *& Commeſſatio*. Which five words do ſignifie the five ſeveral feedings each day, which children, old men, labourers, travellers, and ſuch like, did uſually obſerve; for others of healthier and ſtronger conſtitution did commonly eat but one meal, at the moſt but two in the day. *Jenta culum* ſignifieth their break-faſt, and it had its name, like as our Engliſh word hath, *à jejunio*, from faſting: In former times it was called a *ſilatum*, from *Sile*, the name of a certain herb, with the root whereof they were wont to ſeaſon that wine which they had at break-faſt: for as *b Plutarch* ſaith, their break-faſt was nothing but a ſop dipped in wine. In the ſame place he likewiſe ſaith, that in old time they had no dinner, but that which we call *Prandium*

a Roſin. ant. l. 5. c. 27. *b* Plut. in ſym. l. 8. q. 6.

was the ſame with them as *Jentaculum*, and thus much the Greek word ἄεισον ſignifying a dinner, doth intimate, it being ſo called, *quaſi* ἀϊεισον from ἀϊειν, which ſignifieth the mourning. The name *Prandium*, which we render a dinner, was ſo ſaid *quaſi* πρὸ ἐνδίου ſignifying Noon-tide, or Mid-day. The third time of taking meat, was called *Merenda*, we may Engliſh it our Afternoons beaver; it was called alſo *Amicœnium*, becauſe it was taken a little before ſupper. *c Merenda eſt cibus, qui declinante die ſumitur, qua ſi poſt meridiem edendus & proxime cœnæ; unde & antecœnium à quibuſdam dicitur.* The fourth time was their ſupper; called *cœna*, *quaſi* κοινὴ which ſignifieth as much as *Common*, *d quia antiquitus ſeorſim ſolebant prandere Romani, cœnare cum amicis.* Their fifth and laſt time of feeding, was called in Latine *Commeſſatio* by ſome, by moſt *Commeſſatio à comedendo.* *e Joannes Triſtinus* ſaith, that it is a beaver taken after ſupper, or a night drinking. But the cheif feaſt, whereat they *f* gave entertainment, being their ſupper, we will conſider theſe three things therein. Firſt, *accumbendi vel diſcumbendi rationem*, that is, the manner of their lying at ſupper (for they did neither ſtand nor ſit at table, as we do) ſecondly, the form and faſhion of their table; and laſty the parts of their ſupper. The place where they ſupped, was commonly called *Cœnaculum à cœna*; as our *dining chamber* is ſo called from our *dinner*. It was alſo called *Triclinium* or *Byclinium*, from κλίνη a bed; for ſometimes there were three beds, ſometimes but two about the table, upon which the gueſts did ſit, or rather lye along. In this dining Parlour was placed [a] table, ſometimes made quite round, and for the common ſort of people it was made of ordinary wood, ſtanding upon three feet; but for men of better rank, it was made of better timber, inlaid ſometimes with wood of divers colours, ſometimes with ſilver, and it ſtood upon one whole intire foot, made of Ivory in form of a great Lion or Leopard, *&c.* Unto the meaner ſort of theſe tables *Horace* alludeth;

Modo

c Juſt Lipſ. cent. 1. ep. 65.

d Plut. ſym. l. 8. q. 6.

e In orat pro M Cœlio.

f Lazius de repub. Rom. l. 3. c. 3.

——*Modò ſit mihi menſa tripes.* *Hor. Ser.* 13.

Unto the other, *Juvenal. Sat.* 11. *ver.* 122.

——*putere videntur*
Unguenta atq; Roſæ, latos niſi ſuſtinet orbes
Grande ebur, & magno ſublimis pardus hiatu.

Sometimes this table was made in the form of a half Moon, the one part thereof being cut in with an arch or ſemi-circle, and then it was called *Sigma*, becauſe it did much reſemble the letter *Sigma*, ς which as it appeareth by certain marble monuments, was in old time made like a Roman *C*. Hence is that of *Mart. lib.* 14. 87. ς Roſin. ant. l. 3. c. 28.

Accipe lunata ſcriptum teſtudine Sigma.

If any man ſhould demand the reaſon, why they cut their table in that form, I muſt confeſs I have not read any reaſon in any author bearing ſhew of probabillity. My conjecture is this; it is agreed upon by moſt Authors, that in the round tables the one quarter was reſerved void from gueſts, that the waiters might have convenient room to attend: thereupon it ſeemeth not improbable unto me, that this crooked arch was made for the waiters. I acknowledge that this *Sigma* hath been tranſlated diverſly by divers writers, as it appeareth by *Lipſius* in the forequoted place. By ſome it hath been taken for the Parlour, or ſupping-chamber, ſo *Lipſius* in his Antiquities; by others for the ſupper or feaſt it ſelf: ſo *Cœlius*. By *Lipſius* ſince it hath been thought a certain place, erected in the manner of a ſemi-circle, or half Moon, againſt which they did place one continued bed, able to take ſix or ſeven gueſts. But *Bradæus* and *Ditmarus*, in my opinion have more truely taken it for the table it ſelf. About the table that was perfectly round, were placed three beds, covered with tapeſtry, or ſome other kind of covering, according to the wealth and ability of the perſon, and thus

——*Strato diſcumbitur oſtro:*

The beds being ready furniſhed, the gueſts lie down in manner as followeth. Each bed contained three perſons,

sons, sometimes four, seldom or never more, except at their great and more solemn feasts. If one only lay upon the bed, then he rested the upper part of his body upon his left elbow, the lower part lying at length upon the bed; but if many lay upon the bed, then the uppermost did lie at the beds head, laying his feet behind the second his back; the second rested his head in the others bosom, having a cushion put between, laying his feet behind the third's back: in like manner the third and fourth did lie. The number of the guests was not great, seldom times exceeding nine: whence *A. Gellius h* saith, that the number of the guests should begin with the *i Graces*, and end with the *Muses*, that is, they must not be fewer than three, nor more than nine. This also hath been the reason of that adage, *Septem convivium, novem convitium faciunt. Heliogabalus* seemeth to have been delighted with the number of eight, *k* whence he invited to supper *octo calvos, octo luscos, octo podagrosos, octo surdos, octo raucos, octo insignitur nigros octo insignitur longos, octo præpingues, & octo nasutos, delectatus illo Græco proverbio ἄκλητοι ἀκλήτοις*: Those that were not invited, but came of their own accord unto a feast without bidding, by *Plautus* they are called *Muscæ*, flies by others they are called *Umbræ*, shadows. Hence is that of *Horace*,

——— *Locus est & pluribus umbris.*

The party which invented the guests, sometimes expressed his earnestness by pulling and hailing one by the cloak: whence *Stukius* observeth, that when they would shew how earnestly they were invited, they would say *Penulam mihi scidit*, He tore my cloak off my shoulder. Again on the other side, when they would shew how easily the guest was intreated, they would say, *Illius ego vix tetigi penulam, tamen remansit.* Before the guests sate down, their shoes were usually pluck'd off, that they might not foul the bed on which they did lie *l*;

h A. Gell. Noct. Att. l. 13. c. 13. Tribus aut novem miscentur cyathia pocula commodis, qui musas amat impare.

Ternos tercyathos attonitus petet Vates, tres prohiber. supra Rixarûm metuens tangere Gratia. Nudis juncta sororibus. Hor. carm. l. 3. Od. 19.

i Alex. Gen. dier. l. 5. c. 21.

k Stukius de conv. l. 4. c. 1.

Terent. in Menaton.

Accurrunt

Accurrunt servi, soleas detrahunt,
Video alios festinare lectos sternere, cœnam parare.

m They likewise did gird their heads with fillets and hair-laces, as often as they intended to drink more than ordinary, thereby to prevent the vapours, which otherwise would annoy the head: for which reason, they did likewise *n* use garlands of Ivy, and Mirtle-tree, and Roses: the coolness of which comforted the brain. These garlands were also *Symbolum plenæ libertatis*, a token of their liberty. The Carver in these feasts was called from his artificial setting and ordering the dishes upon the table, *Structor*: and from his artificiall carving and cutting up of the dish, *Carptor*. *Tryphonus*, as appeareth by *Juven. Sat.* 11. was famous for his skill in carving: he did set up a school, teaching such as came unto him by rules and precepts: and also shewing them the manner of carving: which that he might the better do, he furnished a table with several dishes of meat, formed and fashioned in wood, with a dull knife, shewing his schollars after what manner, and with what gesture of their body they should cut up this or that dish. This supper because of the wooden dishes of meat, was called *Cœna sulmea*. They divided their supper usually into three parts, which they termed their first, second, and third course. In the first course commonly was served mulberies, lettices, sausages, and alwayes *Eggs*: as likewise in the last course (whether the second, or third) were served nuts, figs, grapes, but always *Apples*: *p* whence we say proverbially, *Ab ovo ad mala*, from the beginning of the feast to the end: or simply from the beginning of any thing to the end thereof. The middle course was the main supper, and the chief dish thereof was called *Caput cœnæ*: In *Lipsius* his phrase it is called *q Fundus & fundamentum cœnæ*. Their first mess they called the *proœmium*; the last, the *epilogue*: which because it consisted so much of sweet and delicious meats, hence did they apply that unto the

m Cœl. Rhod. l. 27. c. 26.

n Plin. l. 16 c. 1.

o Stuc. de conv. l. 3. c. 3.

p Pancirol. l. rer. deperdit. cap. de cibi. capiendi modo.

q Stuc. l. 3. de conviv.

the second course, αἱ ὑστέραι φρονίδες σοφώτεραι, *Secundæ cogitationes sunt sapientiores.* If the table were well furnished with plenty and variety of dishes, it was called *Cœna recta*, or *Cœna dubia Recta* in this place signifieth as much as *vera*: thus among the Grecians ὀρθὸς sometimes signifieth *verus & sincerus*. The phrase intimateth that it was a supper, opposed to that dole of meat distributed by Princes to the people, which from the panier or basket in which it was brought, was called *sportula*; sometimes they distributed money instead of meat, this also was named *sportula*: so that *sportula* denoted any kind of dole, either of meat or money, which as often as it was given in lieu of a supper, it was opposed to *cœna recta*. Yet sometimes by *sportula* we may understand a light and short supper.

Turneb. adv. l. 5. c. 10.

Promissa est nobis sportula, recta data. Martial.

The reason why a great feast should be termed *Cœna dubia*, is, because in such variety of dishes the guest is many times doubtful of which to begin. Contrary to this is *cœna ambulatoria*, a supper where one dish walketh through the table.

LIB.

LIB. III. SECT. I.

Of the Roman *Aſſemblies.*

De Comitiis.

HItherto have we inſiſted upon the deſcription of the moſt remarkable parts of the *Roman* City, together with the ſeveral diviſions of the *Roman* people, as alſo the *Roman* religion; where we have ſeen the general diviſions of their Gods and their Sacrifices, with their Ceremonies thereunto belonging, and likewiſe of the *Roman* games both greater and leſs. Now we are to proceed to that part of government, which is political or civil; where we will firſt ſpeak of their Aſſemblies called *Comitia*, then of their civil Magiſtrates, afterwards of their puniſhments, and laſtly, of ſo many of their civil laws, as I have obſerved needful for the underſtanding of *Tully*, and that principally in his Orations. For the more eaſie conceiving of all which I have prefixed one Chapter of the *Roman* year, treating there of the *Calends*, *Ides*, and *Nones*, the knowledge of which is needful for that which followeth.

CAP. 1.
De Anno & partibus ejus.

INasmuch as there cannot be a full knowledge of the *Roman* Assemblies, without some general understanding of the *Roman* year, and the general distinctions of the *Roman* days, it cannot be but worth our labour in this short Chapter, briefly to consider what may be spoken therein. This word *Annus*, is so called *quasi Annulus*, because (as the Greek word ἐνιαυτὸς signifieth) ἐν ἑαυτῷ ἕπεται, *id est, in se convertitur annus:* which was the reason, why the *Egyptians* in their mystical cyphers (called *literæ hieroglyphicæ*) did use the picture of a serpent, having his tail in his mouth, to signifie an year. The time or space of this year hath been divers, according to the diversity of Nations. *a* Some allowed no more days to an year, then we do to a month, whence that monthly space which the *Latines* called *Mensis* from *b* μὴν, signifying the Moon, they called *Annum Lunarum*. Some allowed four months, some six months, some ten. And thus *Romulus* measured his year, counting the months either from the number of our fingers, or from the time that a woman goeth with child, or from the time that a widdow commonly mourned for her husbands death, or lastly from the multiplication of unities which in a simple number doth not exceed ten.

a Vid. Plin. l. 7. c. 48.

b Paulus Mar. in Ovid. Fast. lib. 1.

Quod satis est utero matris dum prodeat infans,
Hoc animo statuit temporis esse satis.
Per totidem menses à funere conjugis uxor
Sustinet in viduâ tristia signa domo. Ovid. Fast. l. 1
Annus erat, decimum cùm Luna receperat orbem,
Hic numerus magno tunc in honore fuit:
Seu quia tot digiti per quos numerare solemus,
Seu quia bis quino fœmina mense parit,
Seu quòd ad usque decem numero crescente venimus,
Principium spatiis sumitur inde novis. Ovid. Fast. l. 1.

Thus

Thus *Romulus* his year contained of months ten, of days 304. But after this *Numa* added two months,

At Numa nec Janum, nec avitas præterit umbras.
Menſibus antiquis addidit ille duos. Ovid. l. 1. Faſt.

Numa, c or as ſome ſay, *Tarquinius Priſcus* perceiving that the months did not always fall out alike every year; but ſometimes the ſame month would happen in the Summer, ſometimes in the Winter, thereupon after long ſtudy and many inſtructions from the *Grecians*, finding the reaſon of this confuſedneſs, he added unto *Romulus* his year fifty days, ſo that the whole year afterward was divided into twelve months; becauſe the Moon had finiſhed her courſe twelve times in that ſpace; beginning their year then at *January*; becauſe then in his judgement was the fitteſt time to begin the year, when the Sun being fartheſt from us, did begin to turn his courſe, and to come unto us again, which is about *January*, the Sun being about the *Tropick* of *Capricorn*. Afterward upon a ſuperſtitious conceit of the odde number, *Numa* added one day more unto *January*, ſo that whereas at the firſt *Numa* his year did agree with the *Grecian* year, both of them containing three hundred fifty four days: Now the *Roman* year contained three hundred fifty five days, which computation falling out too ſhort for the true year by the ſpace of ten days, and ſix hours yearly, it occaſioned every eighth year in the interpoſition of three whole months, which they called their leap year: d This confuſedneſs afterward *Julius Cæſar* by long ſtudy remedied, adding the odde ten days unto *Numa pompilius* his year. And leaſt the odde ſix hours might at laſt breed diſorder in their computation, he appointed that every fourth year a whole day ſhould be inſerted, next after the three and twentieth of *February*; which inſerting they called *Intercalatio* from an old verbe *Intercalo*, and that day they called *Intercalarem*. Now the day following being the four and twentieth of *February*, was always the ſixt of the Kallends of *March*, e and therefore becauſe of the interpoſition of

c Vid. Georg. Merulam in orat. pro Q. Ligario.

d G. Merul. in orat. pro Q. Ligario.

e G. Merul in orat. pro Q. Ligario.

that day, they called the leap year *Annum biſextilem*, that is, the year where in their falled out two days, which they called *Sext. Calend. Martii.* And the day thus interpoſed, was called *dies biſſextus.* This computation, which *Julius Cæſar* found out, we have embraced, and do at this day follow, calling our year *Annum Julianum*, *f* and *Annum magnum*, having relation to the monthly year called *Annus Lunaris*; and ſometimes this great year is called, *Annus vertens, à vertendo*, becauſe it is always turning, and running on. * Moreover we muſt remember, that the *Romans* did begin their year at *March*; whence that month, which ſince hath been called *Julius* in the honour of *Julius Cæſar*, was by them called *Quintilis*, becauſe it was the fifth month; and that month, which ſince hath been called *Auguſtus*, in the remembrance of *Auguſtus Cæſar*, was by them called *Sextilis*, becauſe it was their ſixth month. Thus then the great year being divided into twelve months, every month was divided into three parts, *id eſt*, *Calendas*, *Nonas*, and *Idus*. The *Kalends* were ſo proper unto the *Romans*, that *g* *Auguſtus Cæſar*, when he purpoſed never to do what he was requeſted, was wont by way of Proverb to ſay, that he would do it *Ad Calendas Græcas*, that is to ſay in our Engliſh Proverb, *At latter Lammas*, *never*. For the better underſtanding of which, I ſhall inſert three common verſes,

f Roſin. ant. Rom. lib. 4.

* Hubert. l. 3. ep. fam. 18.

g Suet. Oct. Aug. c. 87.

Principium menſis noſtri dixere Calendas:
Sex Majus Nonas, October, Julius, & Mars,
Quatuor at reliqui, tenet Idus quilibet octo.

That is, the firſt day of every month is called the Kalends of that month. The 2, 3, 4, 5, 6, and 7. of theſe four months, *May*, *October*, *July*, and *March*, were called the Nones of that month: but in all the other months the Nones contained but the 2, 3, 4, and 5. days; ſo that the fifth day (for example ſake of *January* was called *Nonæ Januariæ*, or *Januarii*, the fourth *Pridie Nonarum*, or *Nonas Jan.* (For they uſed always to ſay *Pridie Cal. Pridie Nonas*

nar: and *Pridie Iduum*, instead of *secundo Cal. Non. Id.*) The third day of January they called *tertium Nonarum, vel Nonas Jaunar.* the second day of January they called *quartum Nonarum, vel Nonas Januar.* After the Nones followed the Ides, which contained eight days in every moneth, so that the 15. day of the four aforesaid moneths was called *Idus Maii, Idus Octob. Idus Julii*, and *Idus Martii.* In all the other moneths, the 13. day was the Ides, as to proceed in January, the 13. day was called *Idus Januar.* the 12. *Pridie Iduum, vel Idus Januar.* the 11. *tertio Iduum*, or *Idus Jan.* the 10. *quarto Iduum, vel Idus Jan.* the ninth, 5. *Id. Jan.* the eighth, 6. *Id. Jan.* the seventh, 7. *Id. Jan.* the sixth, 8. *Id. Jan.* After the Ides then followed the Calends of the next moneth. As the 14. of January was *decimo nono Calendarum*, or *Calendas Februar.* the 15. *decimo octavo Calend. Feb.* the 16. *decimo septimo Cal. Feb. &c.* Where we must note, that as often as we use *Pridie, tertio, quarto*, or any of those numerals with an accusative case, as *Pridie Calendas*, &c. the *Grammarians* say that this preposition *Ante* is eclipsed. Again, every moneth had in its compass three great markets, which because they were observed every ninth day were called *Nundinæ*, and the latter of them being the greatest is called by *Atheneus* τριτη ἐκκλησια which we may render *Trinundinum*, or *Trinum nundinum.* It followeth now that I should treat of the days, which are the lesser parts of the year: where before we proceed, we will consider the parts which the Romans divided their day into.

Dies Civilis continet

Lucem, cujus partes sunt
- *Diluculum.* The break of day.
- *Mane.* The full morning.
- *Ad meridiem.* The fore-noon.
- *Meridies quasi Medius dies,* Mid-day, or *quasi Merus dies,* Perfect day, noon.
- *De Meridie.* After noon.
- *Solis occasus.* Sun setting.

Noctem, cujus partes sunt
- *Crepusculum.* The Dusk of the evening.
- *Prima fax.* Candle tinding.
- *Vesper.* The night.
- *Concubium.* Bed-time.
- *Nox intempesta.* The first sleep.
- *Ad mediam noctem.* Towards mid-night.
- *Media nox.* Mid-night.
- *De media nocte.* A little after mid-night.
- *Gallicinium.* Cock-crowing.
- *Conticinium.* All the time from Cock-crowing to the break of day.

The day and night again were each of them divided into *primam, secundam, tertiam, & quartam vigiliam,* every watch containing three hours. The first of the night began at six of the clock in the evening, and the fourth ended at six of the clock in the morning. *g* These watches were distinguished by several notes and sounds of Cornets or Trumpets, that by the distinction and diversity thereof, it might easily be known what watch was sounded. Moreover, we must understand that the *Romans,* upon a superstitious conceit and observation of misfortunes, and evil events falling out on some dayes, and more happy success upon other, have called the former sort of days *Atros dies,* or *dies postriduanos, & Ægyptiacos: ἀποφρας Greci nuncupant, perinde ac si nefandos dicas.* The reason why they were called *Prostriduani,* was because they thought *Dies prostridie Calendas, Nonas, & Idus i. e.* The next day after the Calends, Nones, or Ides of every moneth, to be unfortunate, and the latter sort they called *Albos dies, h* borrowing the names from the *Scythians*

g Alex. Gen. l. 1. c. 13.

h Vid. Eras. adag. unione signare.

thians, who uſed to chalk out the fortunate days in their Kalendars with white Characters: whence *Horace* ſaith

Creſſa non careat pulchra dies nota.

Other-ſome, as their unfortunate and unlucky days, were noted with a coal or black Charactes, according to that, -------*Nigro carbone notatus.*

Again, their Kalendar diſtinguiſhed ſome days for Holy-days, which they called *Dies feſtos*, feſtival days, or *dies Feriatos, & Ferias*, Holy-days, *i* becauſe they did upon ſuch days *Ferrire victimas*, i. e. offer up ſacrifices. Others were diſtinguiſhed for working days, which they called *Profeſtos, quaſi procul à feſtis.* The third diſtinction was of half holy days, which *ab intercidendo*, they called *Dies interciſos*, as it were days cut aſunder: the one part of them being allotted for worldly buſineſs, the other for holy and religious exerciſes. *k* The *feriæ* were either *privatæ*, and ſo they belonged ſometimes to whole Families, as *Familiæ Claudiæ, Æmiliæ, Juliæ*, &c. ſometimes to private perſons, as every one his birth-day, particular expiations, &c. or elſe they were *publicæ*, ſuch as the whole Common-wealth did obſerve; and they were of two ſorts, the one called *Anniverſariæ*, which were always to be kept on a certain day, *l* and thereupon they were called *feriæ ſtativæ*; the other *conceptivæ*, which were arbitrary, and ſolemnized upon ſuch days as the Magiſtrates and Prieſts thought moſt expedient, whereof the *Latiræ feriæ* were chief: which *Latinæ feriæ* were kept on Mount *Alban* to *Jupiter Latiar*, for the preſervation of all the Latine people in league and confederacy with the *Romans*, and were ſolemnized in memory of the truce between thoſe two Nations. Thoſe *Feriæ*, which were called *Imperativæ*, & *m Indictivæ*, becauſe the *Conſul, Prætor*, or chief Pontifie, according to their pleaſure, *imperabant, & indicebant has*, i.e. commanded them, may in my opinion be contained under that number of *Feriæ conceptivæ*, in reſpect of the uncertainty of them. Another diſtinction of days is found in the *Roman Kalendar*, to have

i Aſcenſus in ep. 3. illuſt. ir. l. 2.

k Roſin. ant. l. 4 c. 3.

l Alex. Gen. dier. l. 5. c. 7.

m Alex. Gen. dier. l. 6. c. 7. Serv. Æn. 11.

have been in *Fastos*, whole court or leet days; *Ex parte Fastos*, half court-days; *Nefastos*, Non leet-days; though this word *Nefastos* be often expounded unlucky, as in that of *o Horace* touching the tree, *Ille & nefasto te posuit die*, that is, he planted thee in an unhappy time. These days were called *à fando*, from speaking; because upon those days which were *fasti*, the *Preter* or L. chief Justice might lawfully keep court and administer justice, which was not done without the speaking of these three words, *Do, Dico, & Addico*; *p Dabat actionem*; *Dicebat jus*; *Addicebat tam res quam homines*. Where by the way we must note, that sometimes these court-days were also called *dies Comitiales*, because that *q* upon every such day which was noted in the Kalandar for a Comitial day, if the publick Assemblies were not held, it was lawful to keep court: whence not only *Comitiales dies* doth signifie a law day, but *Comitialis homo* also doth signifie a wrangler in the law, or a litigious person.

o Carminum l. 2. Ode 13.

p Joach. Camerar. pro Flacco.

q Bersman. in Sus's annot. in Rom. Calen. ad finem Ovid. Fast.

CAP. 2.

De Comitiis idq; Calatis præcipue, de Rogationibus, & antiqua scribendi ratione.

EVery assembly of all the *Roman* people being called together by a lawful Magistrate to determine any matter by way of giving voices, is *à coeundo* termed *Comitia* simply, without the adjection of any other word; or *Comitia Calata*, that is, assemblies called together, from καλέω or the absolute Latine Verb *Calo*, which signifieth to call; though afterward those assemblies only which were held either for the inauguring of some Pontifie, some *Augur*, some *Flamen*, or him that was called *Rex sacrorum*, or for the making of their wills and testaments, were called *Calata Comitia*. Whence the Will that was made in these assemblies was called *Testamentum Calatis Comitiis*. This kind of assembly is sometimes called *Comitia a Pontificia*, and *Comitia Sacrdotum*, in that sense as others

a Joan. Trissinus in orat. pro Cœlio.

others are called *Consularia*, or *Ædilitia Comitia*, namely, because the Pontifies in these, as the *Consuls* and *Ædiles Plepis* in the other, were chosen. There followeth three other kinds of assemblies: for either the people did assemble themselves by Parishes, called *Curiæ*; or by hundred, called *Centuriæ*; or by Wards called, *Tribus*. The first sort of assemblies they called *Comitia Curiata*, the second *Comitia Centuriata*, the last *Comitia Tributa*: *b* where by the way we must note, that that thing which was determined by the *major* part in any Parish, hundred, or ward, was said to be determined by that whole parish, hundred or ward; and that which was determined by the *major* part of parishes, hundreds or wards, was that to be approved *comitiis Curiatis Centuriatis vel Tributis*. Secondly we must note, that neither children, until they were seventeen yeares old, nor old men after the sixtieth year of their age, were allowed to suffrage in these assemblies; whence arose that adage, *Sexagenarii ponte dejiciendi*, *c* and old men were hence called *Depontani*, for the explication of which see before. Here before we speak of those three several kinds of assemblies, we will consider the manner of their proceedings, in propounding cases unto the assemblies. *d* The custom was at first, that the *Romans* should bestow their suffrages *Viva voce*; but afterward that every one might with free liberty give his voice, they commanded certain wodden tables, wherein the names of those that stood for Offices were written, to be carried about, every suffrager receiving so many tables as here were suitors; then did the people give back that table with whom they would suffrage. But if a law were to be enacted, then every suffrager received two tables, in the one of which were written these two great letters V. R. in the other was written a great Roman A. those who delivered these tables to the people, did stand at the lower end of those bridges; which were erected up for the suffragers to ascend unto the *ovilia*) whence they were called *à diribendo*, *i. e.* from distributing *Diribitores*. At the other end of the bridges were placed cer-

b Sig. de jur. Rom. l. c. 17.

c Pars putat non ferrent. juvenes suffragia soli, Fontibus infirmos præcipitasse senes. Ovid. Fast.

d Philip. Beroaldus in orat. Phil. II.

tain chests or little coffers, into which the suffragers which did approve the Law did cast in the first table; those that disliked it, did cast in the second; for by those two letters V. R. which were written in the first, is meant *Ut Rogas*, i.e. Be it as thou hast asked, this word *fiat* being understood; by A. in the second table was meant *Antiquo*, i.e. I forbid it, the word signifying as much as *antiquam volo*, I like the old law, I love no innovations. The tables being thus cast into the chests, certain men appointed for that purpose in manner of Scrutators (they [f] Plin. l. 33. c. 2. called them *Custodes*, and sometimes [e] *Nongenti*) did take the tables out of the chests, and so number the voices, by making so many points or pricks in a void table, as they found tables alike: which kind of accounting occasioned these and the like phrases; *Suffragiorum puncta non tulit septem*, and *omne tulit punctum*; where *punctum* is used for *suffragium*: The voices being thus numbred, it was pronounced by the common Crier what was decreed. Because the use of those Tables is now grown quite out of use, I shall make bold to insert that which with much labour I have collected out of several Authors touching these tables. It is certain that a long time the use of paper was not known, whence men were wont to write sometimes upon the inward rindes of trees, called in Latine *Libri* (so that to this day we call our books *Libri*, because in old time they were made of those rindes of trees) sometimes they did write in great leaves made of that rush *Papyrus*, growing in *Ægypt*, from which we have derived our English word *Paper*, and the Latine word *Papyrus*, now signifying writing paper. Shortly after the invention of this Egyptian paper, *Ptolomy* the King of *Egypt* restrained the [a] Plin. lib. 13. cap. 11. common making thereof, because of the great *a* emulation between him and *Eumenes* King of *Pergamus* concerning their Libraries: not long after therefore *Eumenes* having found out the making of parchment, he made use thereof in writing, and called it from the place *Pergamena*,

gamenta. At this time did the *Romans* use to write in tables of wood, covered with wax, called in Latine *ceratæ tabulæ*. They wrote their Wills and Testaments in tables, *b Hinc secundum & contra tabulas bonorum possessio*; The possession of goods either according to or against the Testator his Will. Because of the wax wherewith these tables were covered, *cera* is often used in the same sense; *Hæredes primæ ceræ*, i. e. *primæ tabulæ, & in primo gradu instituti*, by which words I think are understood such heirs as *Alexander* calleth *Hæredes ex toto asse*, that is heirs to the main inheritance, opposing them to those which did receive only legacies, whom he calleth there *Hæredes in ima cera, secundos hæredes, & legatarios*. *d Sylvius* not upon improbable grounds doth think that *Tully* doth understand by *Hæredes secundi*, such heirs as were nominated to succeed the chief heir or heirs if they died. They wrote their accounts in tables, hence *Tabulæ accepti & expensi*, signifying reckoning books. These count-books were of *e* two sorts, some monthly, without order or method, called *Adversaria*: *Quod adversa parte etiam scriptis implerentur*. Others perpetual, being the transcript of the former, called *Tabulæ accepti & expensi*. They wrote their statutes also in tables, whence *Tabulæ publicæ* are Englished statute-books, or other books of record. Those writings or instruments which the Senate or Emperour caused to be hanged up in the Market-place, to release and discharge any bankrupt from paying his debts, they termed *tabulas novas*, we may English them Letters of protection. They wrote their inventories of goods set to sale in Tables, calling them *tabulas actionarias*: yea they indited their epistles and common letters in tables: insomuch that *tabellæ* are expounded missive letters, *and tabellarius*, which properly signifieth a carrier of tables, is now used to signifie a letter carrier: yet they sometimes wrote also in plates of lead, εἰς ἐλασμοὺς μολυβδεῖν γεγραφοντες. And thus we may understand what *h Suetonius* meaneth by *charta plumbea*, concerning

b P. Pellitar. in ora. pro *A.* Cœcinna.

c Alex Gen. dier. l. 1. c. 1.

d Fr. Sylv. pro Cluent.

e Cœl. Rhod. l. 12. c. 21.

Fr. Sylv. in orat. Catilin.

g Suidat. in voce. μόλυβδος

h Suet. Ner.

cerning all these, *i Plini* writeth excellently. Before the use and making of paper was invented, men wrote at first in Plam-tree leaves, afterwards in the rindes of certain trees; afterward publick monuments were recorded in volumns or rolls of lead, at last private matters, on fine linnen or wax. *k* The manner how they sealed their letters was thus: they did bind another table unto that wherein the inditement was, with some strong thread; sealing the knot of that thread with wax; whence *Cicero* saith, *Linum inscidimus*, that is, we opened the letters; hence also is that of *Platus*, *Cedo tuceram ac linum; age, obliga, obsigna cito.* *l* The impression was commonly their own image, or the image of some of their ancestors. The matter on which the impression was made, was not alwayes wax, but sometimes a kind of tempered chalk, which occasioned that phrase of *Tullies*, *m Signum ille animadvertit in cretula.* *n* Lastly, they wrote their books in tables, whence from them we do at this day call our books *codices à caudicibus*, *candex* signifying properly the trunck or stock of a tree, whereof these tables or books were made. We must note withall, that they wrote not with ink or quill, but with an instrument of steel or iron, having *o* a sharp point at the one end, and being broad, yet keen and well edged at the other; with the sharp point they did write what they pleased, with the broad, end they did scrape out what they had written: whence *Stylum invertere*, is to say and unsay a thing, to turn his punch the wrong end downward, as it were to scrape out that which one had formerly written. The *Romans* did afterward use instead thereof, an instrument made of bone, prohibiting the use of iron ones, as *p Isidore* noteth by that law, *Ceram ferrone cædito.* And as we use this word *Manus*, to signifie the writing it self, according to that of *q Tully*, *cognovit, manum, & signum suum*: so in the like sense we use this word *Stylus*, to signifie the peculiar tenure or strain of phrase which any man observeth in the composing of an oration, epistle, or such like;

i Plin. l. 13. c. 11.

k F. Sylv. in orat. Catil. 3.

l Just. Lips. c. pist. c. 4.

m Cic. 4. in Verrem.

n P. Pellitar. in orat. pro A. Cœcinna.

Vid. Eras. Adag.

p Herman. Hugo de prima scrib. orig. c. 9.

q Cic. orat. cont. Catil.

in

in which ſenſe *Tully* uſeth it, as the antitheton to *gladius*, in that ſpeech of his, *Cedat forum caſtis, otium militiæ ſtylus gladio*, though in another place he uſeth it to ſignifie, if not a ſword yet a pocket dagger, as, *Et ſi meus ille ſtylus fuiſſet*; ſ in which place *Stylus* doth ſignifie as much as *pugio*. And here ſeeing we are fallen into the manner and cuſtome of ancient writing, it will not be amiſs to note, that uſually at the end of their books, they printed a little mark, which they termed *Coronis*. Thoſe that interpret *Ariſtophanes*, deſcribe that mark thus, ſaying, that it is t *Linea brevis ab inferiore parte flexa*. All agree in this, that it was ſome common and known daſh, uſually ſubjoyned to the end of books. u Others are of opinion, that the ancient *Romans* did in like manner adorn the frontiſpiece, or beginnig of their books with the picture of an half Moon; which obſervation giveth light not only to that adage, ἀπὸ τῆς ἀρχῆς μεχρὶ τῆς παρωνίδος, from the beginnig to the ending; but alſo that of *Martial. l.* 10.

ſ Cic. orat. pro muræn. Mic. Toxit. in orat. Phil. 2

t Cœl. Rhod. l. 15. c. 20.

u Turn. adv. l. 22. c. 10.

Si nimius videor, ſeraq; coronide longus
Eſſe liber, legito pauca, libellus ero.

And that of *Ovid*,

Candida nec nigra cornua fronte geras.

For in *Turbenus* his judgement thoſe half Moons præfixed were called *Cornua*. Howſoever this may be true touching the daſh, or charecter at the end of the book, and that it was termed *Coronis*; yet I doubt whether any ſuch half Moon was uſually præfixed in the beginning of books, or whether ſuch an half Moon were denoted by the Latine word *Cornu*. More probable in his opinion, * who treating of this very matter, ſaith, that in old times a whole book was written in one continued page, neither did they then cut their books into many leaves, and bind them up in that manner as we do; but that one entire page in which alone the book was written, was wont to be rolled up upon a ſtaff, faſtned at the end thereof, in manner as many large Maps are

*Pyr. hierog l. 34.

now

cerning all these, *i Plini* writeth excellently. Before the use and making of paper was invented, men wrote at first in Plam-tree leaves, afterwards in the rindes of certain trees; afterward publick monuments were recorded in volumns or rolls of lead, at last private matters, on fine linnen or wax. *k* The manner how they sealed their letters was thus: they did bind another table unto that wherein the inditement was, with some strong thread; sealing the knot of that thread with wax; whence *Cicero* saith, *Linum inscidimus*, that is, we opened the letters; hence also is that of *Platus*, *Cedo tuceram ac linum; age, obliga, obsigna cito.* *l* The impression was commonly their own image, or the image of some of their ancestors. The matter on which the impression was made, was not alwayes wax, but sometimes a kind of tempered chalk, which occasioned that phrase of *Tullies*, *m Signum ille animadvertit in cretula.* *n* Lastly, they wrote their books in tables, whence from them we do at this day call our books *codices à caudicibus*, *candex* signifying properly the trunck or stock of a tree, whereof these tables or books were made. We must note withall, that they wrote not with ink or quill, but with an instrument of steel or iron, having *o* a sharp point at the one end, and being broad, yet keen and well edged at the other; with the sharp point they did write what they pleased, with the broad, end they did scrape out what they had written: whence *Stylum invertere*, is to say and unsay a thing, to turn his punch the wrong end downward, as it were to scrape out that which one had formerly written. The *Romans* did afterward use instead thereof, an instrument made of bone, prohibiting the use of iron ones, as *p Isidore* noteth by that law, *Ceram ferrone cædito.* And as we use this word *Manus*, to signifie the writing it self, according to that of *q Tully*, *cognovit, manum, & signum suum*: so in the like sense we use this word *Stylus*, to signifie the peculiar tenure or strain of phrase which any man observeth in the composing of an oration, epistle, or such like;

i Plin. l. 13. c. 11.

k F. Sylv. in orat. Catil. 3.

l Just. Lips. c. pist. 14.

m Cic. 4. in Verrem.

n P. Pellitar. in orat. pro A. Cœcinna.

Vid. Eras. Adag.

p Herman. Hugo de prima scrib. orig. c. 9.

q Cic. orat. cont. Catil.

in

in which ſenſe *Tully* uſeth it, as the antitheton to *gladius*, in that ſpeech of his, *Cedat forum caſtis, otium militiæ ſtylus gladio*, though in another place he uſeth it to ſignifie, if not a ſword yet a pocket dagger, as, *Et ſi meus ille ſtylus fuiſſet*; ſ in which place *Stylus* doth ſignifie as much as *pugio*. And here ſeeing we are fallen into the manner and cuſtome of ancient writing, it will not be amiſs to note, that uſually at the end of their books, they printed a little mark, which they termed *Coronis*. Thoſe that interpret *Ariſtophanes*, deſcribe that mark thus, ſaying, that it is t *Linea brevis ab inferiore parte flexa*. All agree in this, that it was ſome common and known daſh, uſually ſubjoyned to the end of books. u Others are of opinion, that the ancient *Romans* did in like manner adorn the frontiſpiece, or beginnig of their books with the picture of an half Moon; which obſervation giveth light not only to that adage, ἀπὸ ἀρχῆς μεχρὶ τέλους, from the beginnig to the ending; but alſo that of *Martial. l.* 10.

Si nimius videor, ſeraq; coronide longus
Eſſe liber, legito pauca, libellus ero.

And that of *Ovid*,

Candida nec nigra cornua fronte geras.

For in *Turbenus* his judgement thoſe half Moons præfixed were called *Cornua*. Howſoever this may be true touching the daſh, or charecter at the end of the book, and that it was termed *Coronis*; yet I doubt whether any ſuch half Moon was uſually præfixed in the beginning of books, or whether ſuch an half Moon were denoted by the Latine word *Cornu*. More probable in his opinion, * who treating of this very matter, ſaith, that in old times a whole book was written in one continued page, neither did they then cut their books into many leaves, and bind them up in that manner as we do; but that one entire page in which alone the book was written, was wont to be rolled up upon a ſtaff, faſtned at the end thereof, in manner as many large Maps are now

ſ Cic. orat. pro muræn. Mic. Toxit. in orat. Phil. 2

t Cœl. Rhod. l. 15. c. 20.

u Turn. adv. l. 22. c. 10.

*Pyr. hierog l. 34.

now adays with us: hence it is *à volvendo*, that we call our books *Volumnia*, Volumns. This staff on which the book is rolled was called *Umbilicus*; the same word signifieth a navel, which because it is the middle part, and as it were the centre of a mans body, hence approved Authors use the word to signifie the middle of any thing; and haply the name was first given this staff, because when the book was rolled up the staff was the middle thereof: howsoever, because it was fastned alwayes at the end of the page, hence *Umbilicus*, especially when it is applyed to a book, signifieth the end thereof, as *Horace adumbilicum ducere*, to bring to an end. The two pumels, or ends of this staff, which did jet out and appear on each side of the Volumn, they called *Cornua*; and they were wont to be tipt with Silver, or Gold, or otherwise adorned. The Title which was the beginning of every book, was termed *frons*. This seemeth more probable than that of *Turnebus*, and giveth greater light to that of *Ovid*.

Candida nec nigra cornua fronte gerat.

Now that we may proceed to the matter whence we have digressed, it remaineth that we should declare the manner how they enacted their laws. All the *Romans*, though free Citizens, had not power and authority of preferring the law, but only eight of their Magistrates, which they called *Magistratus Majores*, namely the *Prætor*, the *Consuls*, the *Dictator*, the *Interrex*, the *Decem-viri*, the *military Tribunes*, the *Kings*, and the *Trium-viri*, unto these eight were added one of those whom they entituled *Magistratus minores*, namely the *Tribunus plebis*. If any of these Magistrates thought it fit to prefer a law, then did he first write it down at home, and consult with some Lawyer, whether or no it might be for the good of the Common-wealth, whether it should not weaken any former Law, or whether it was not formerly included in some other law, *&c*. These and many other cautions were to be considered before it was preferred;

ferred; yea ſome would have the approbation of the whole Senate after their advice of the Lawyer, though divers times that hath been omitted, and the Lawyer alone allowing it; the Law was hanged out publickly in the Market place for the ſpace of three Market dayes, which kind of publiſhing the Law was termed *Legis promulgatio, quaſi provulgatio*, during which time of promulgation reaſons were alledged *pro* and *con* by the ſpectators, and all the people had ſo much time to conſult of the conveniency thereof, and every one upon juſt reaſon had free liberty to admoniſh him that preferred the Law, either to amend it, or ſurceaſe the propoſal. After the third Market day (for unleſs it were upon an extraordinary occaſion, no aſſembly might be called upon a market day, becauſe of the country folks buſineſſes, they alſo having freedom of ſuffraging) the Magiſtrate did convocate the people to that place where the Law was to be propoſed; there the Town-Clerk, or Notary, reading the Law the common Crier proclaimed it; then did he which promulged it, make an oration unto the people, perſwading them that it might paſs. Sometimes others of his friends would ſecond him with Orations in his behalf, as likewiſe others that diſliked it, would by Orations diſſwade the people, ſhewing the inconveniency thereof. After the Orations had been ended, an urn or pitcher was brought unto certain prieſts there preſent, into which were caſt the names of the Tribes, if the *Comitia* were *Tributa*; or of the Centuries, if they were *Centuriata*; of the Pariſhes, if *Curiata*: then *ſortibus æquatis*, that is, the lots being ſhaken together, they drew their lots: and that Tribe or Century who ſe name was firſt drawn, was called *Tribus vel Centuria Prærogativa, à prærogando*, becauſe they were firſt asked their voices. *Turneb.* interpreting that of *Tully*, *Majores voluerunt prærogativam omnem eſſe juſtorum comitiorum*, interprets it, That the *Romans* did ſo depend upon the prerogative Century, that they would always declare him *Conſul* that was choſen by them, *Tur. ad. l. 5. c. 23.*

That

That *Curia* upon which the first lot fell, was called *q Principium*, because that *Curia* did first suffrage: those Tribes upon whom the others lots fell, namely the second, third, fourth, &c. were termed *Tribus jure vocatæ*. From this distinction it is, that such a man as hath the voices of the prerogative Tribe or Century is said to have *r Omen prærogativum*: which good fortune howsoever could attain unto, was in great hopes of obtaining the other voices of the *jure vocatæ*; for they never, or very seldom, would swerve from the determination of the prerogative Tribe or Century. Whilst the people were busie in their lottery, in the mean time if any *ſ* Tribune of the Commons would *intercedere*, that is, forbid the proceeding, he might be heard, and the whole assembly should thereupon be dismissed; likewise they were dismissed, if either he which first promulged the law did alter his opinion, or if the Consul commanded supplications to be offered up in the behalf of their Emperour, or any of those holy-dayes, called, *Feriæ Latinæ vel Imperatoriæ* to be observed upon that day, or if any of the people assembled were taken with the falling sickness (by reason wherof that disease is called by the *t* Physitians at this day *Morbus Comitialis*.) Lastly, the assemblies were dissolved by reason of the Sooth-sayings, which kind of dissolution was caused, either the civil Magistrates observing of signs and tokens in the heavens, and that was called *Spectio*, and sometimes *De Cœlo observatio*; the very act of this observation, though no unlucky token did appear, dissolv'd the assembly: or else it was caused by the *Augures* and civil Magistrate promiscuously, whensoever any evil token was seen or heard, either by the Magistrate, or *Augure*, (amongst which thunder was always counted the unluckiest) at which time the assemblies were in like manner to be dissolved. This manner of dissolution was termed *Obnuntiatio* or *Nunciatio u Obnunciabat, qui contra auspicia aliqua fieri nunciabat*. Both these kinds are easie to be collected out of that speech in *Tully*, *x Nos Augures nunciationem*

ſolam

q Rosi n. ant. l. 6. c. 7.

r Cic. pro Muræn.

ſ Hub. in lib. 1. Cic. ep. fam. 2.

t Fuchſi Inſt. medic. l. 3. c. 1.

u Stadius. in Flor. l. 3. c. 7

x Cic. orat. Philip. 2.

lam habemus, Conſules & reliqui magiſtratus etiam ſpectionem. aHere we may fitly in way of concluſion unto this tract, add juſt difference to be obſerved between theſe phrases, *Promulgare, Rogare, Ferre, & Figere legem. Promulgare legem*, was to hang up a law not yet asked, to the publike view of the people, to be examined by them touching the conveniency thereof. *Rogare legem*, was to uſe a certain Oration unto the people, to perſwade the conveniency of the law; which Oration becauſe it began with this form of words, *Velitis jubeatiſve Quirites?* that is, O ye Romans, is it your will and pleaſure that this law ſhall paſs or no? Hence was it termed *Legis rogatio. Ferre legem*, was when the law had been approved of by the people, then, to write it down upon record, and ſo to lay it up in the treaſure houſe: *y Cum approbata fuiſſet lex in æs incidebatur, & in ærario condebatur, & tunc demum lata dicebatur.* Laſtly, *Figere legem*, was to publiſh the law after it had been approved and recorded *z* by hanging it up in tables of braſſe in their Market places, or at their Church doors. Hence it is that we uſe *a Tabulam figere* in the ſame ſence, namely to enact or eſtabliſh a law, and *Refigere legem*, to diſprove or cancel a law *b* And that which was determined *Comitiis curiatis*, was termed *Lex curiata*; that which was *Comitiis centuriatis*, *Lex Centuriata*; that which was *Comitiis tributis*, was not called a law, but *Plebiſcitum.*

y F. Maturantius in Phil. 1

z Cor. Tacit. annal. l. 11.

a F. Matur. in Phil. 12.

b Sig. de jure pro. l. 3. c. 1.

CAP. 3.
De Comitiis Curiatis.

Comitia Curiata were thoſe, wherein the Roman people being divided into thirty, Pariſhes, did give their ſuffrages: They were ſo called from *Curia*, ſignifying a Pariſh. And untill *Servius Hoſtilius* his time, who did firſt inſtitute the *Comitia centuriata*, all things which were determined by the ſuffrages of the people, were determined by theſe *Curia comitiata*: But after the other two ſorts

of assemblies had been established, these *Curiata* were used only either for the enacting of some particular laws, or for the creating of some certain Priests called *Flamines*. For the better understanding hereof, we must remember, that though at first these thirty Parishes were parts of the three Tribes (each Tribe being divided into Parishes) yet in process of time the increase of the Roman people was such, that a great part of the Roman fields were filled with buildings and places of habitation, insomuch that the Tribes of the Romans were increased to thirty five: but the Parishes (because none that dwelt out of the city were tied to the rites and ceremonyes of the Roman Religion) did not increase, so that the parishes did not alwayes remain parts of the Tribes. Hence it followeth, that all the Romans had not power to suffrage in these assemblies, but those alone who dwelt within the city, for no other could be of any Parish. The place where these assemblies were held, was the great Hall of Justice, called from these assemblies *Comitium*. Before these assemblies were held, it was required that some lawfull Magistrate for some competent time before-hand should solemnly proclaim them, and the thirty Serjeants (each Parish having for that purpose his Serjeant) should call the people together: as likewise three *Augures*, or at least, one should be present to assure them by their observations, either of the favour or displeasure of the Gods. Upon these premises the matter was proposed unto the people, who if they liked it, then they proceeded unto their election; if otherwise they disliked it, then did the *Tribunus plebis intercedere*, that is, forbid their proceedings: whereupon their assemblies were presently dissolved.

CAP.

CAP. 4.
De Comitiis Centuriatis.

AS those former assemblies were called *Curiata á curiis*, so were these called *Centuriata à centuriis. Servius Tullius* caused a general valuation of every Citizens estate throughout *Rome*, to be taken upon record, together with their age, and according to their estates and age, he divided the Romans into six great Armies or Bands, which he called *Classes*; though in truth there were but five of special note; the sixth contained none but the poorer sort, and those of no worth or esteem. The valuation of those in the first *Classis*, was not under two hundred pounds; and they alone by way of Excellency were termed *Classici*; and hence figuratively are our best and worthiest Authors called *Classici scriptores*, Classical Authors. *d* All the others, though they were inrolled in the second, third, or any other *Classis*, yet were they said to be *Infra classem*. The valuation of the second Band was not under sevenscore pounds. The valuation of the third was not so little as an hundred pounds. Of the fourth not less than forty pounds. Of the fifth not less than twenty five pounds. The sixth contained the poorer sort, whom *Horace* calleth *Tenuis census homines*, men of small substance; and also they were called *Proletarii*, *a munere officiõq; prolis edendæ*, as if the only good that they did to the Common-weal, were in begetting of children; and sometimes they were called *Capite censi*, that is, such as paid very little or nothing at all towards subsidies, but only they were registred among the citizens, as it appeareth by *e Sigonius*. These six great bands or Armies were subdivided into hundreds, called in Latine *Centuriæ*. The first Classis contained fourscore centuries of footmen, and eighteen of horsemen; The second contained twenty centuries of footmen and two of workmen, which followed after to make

d A Gel. l. 7. c. 13.

e Sig. de jur. Rom. l. c. 4.

military engines and weapons: The third alſo, as likewiſe the fourth, contained twenty centuries of footmen, but to the fourth was added two other centuries of Trumpeters, Drummers, and ſuch like, who upon juſt occaſion did *Claſſicum canere*, ſound the Alarum, and upon juſt occaſion did again *receptui canere*, ſound the retreat. The fifth claſſis contained thirty centuries of footmen: the ſixth or laſt Claſſis contained one century: ſo that in all the 6. Claſſes were contained 193. centuries. Where we muſt note, that all the centuries of footmen did conſiſt, the one halfe in every Claſſis of the younger ſort, who were to make war abroad upon the enemies; the other halfe of old men, who remained at home for the ſafety of the City. All that hath been hitherto ſpoken of theſe *Centuriata Comitia*, may be collected out of *Sigonius* in the place above quoted. The cheif Commander of every century was called *Centurio*; the rod or tip-ſtaff wherewith he did ſtrike his Souldiers to keep them in array, was called by *Pliny*, *Centurionum vitis*. So then we may perceive, that thoſe *Centuriata comitia* were thoſe wherein the people did give their voices by centuries or hundreds. Now the centuries did not conſiſt of thoſe alone which had their places of habitation at *Rome*, but of certain *Municipal* States alſo, and ſuch Colonies or other States that could *d Plenum civitatis jus cum jure ſuffragii adipiſci*. *e* Now the cuſtome in old time was, that all theſe centuries ſhould march in their armour after the Magiſtrate which aſſembled them into the *Campus Martius*, there to give their voices. But this cuſtome continued not long: for thereby they did diſarm the City, and give their enemies (if any ſhould aſſaile them in time of their aſſemblies) the greater advantage; for their greater ſecurity thereof, they appointed a flag to be hanged out upon the Mount *Janiculus*, ſome few armed men ſtanding there in watch and ward for the ſafeguard of the City; and when the aſſembly was to be diſſolved, then did the watch depart, and the flag was taken down: neither could

d Roſin. ant. l. 6. c. 10.
e Roſin. ant. Rom. l. 6. c. 16.

could any thing after that be determined, but if they continued their assemblies, then did they proceed to the giving of their voices, in old time thus: Those centuries of the Classis being the wealthier had the prerogative of suffraging first, and because this first Classis contained more centuries than all the rest, therefore if they could agree among themselves, the other centuries were never asked their voices. This kind of suffraging being somewhat partiall, inasmuch as the richer and wealthier being placed in the first Classis, did oversway the elections against the poorer sort of people, thence did the after ages appoint that that century should have the prerogative of suffraging first, upon whom the lot fell. The other centuries were called *f centuriæ Jure-vocatæ*, and did give their voices, not by lots (as the *Tribus Jure vocate* did) but the elder and wealthier centuries did suffrage next after the prerogative century, according as their place required.

f Kosin. ant. Rom. l. 6. c. 20.

CAP. 5.
De comitiis Tributis.

FOr the better understanding of these assemblies by Tribes or Wards, it will be needful first to learn, that this word *Tribus* in this place doth signifie a certain region, ward, or local place of the City, or the fields belonging thereunto, according to that *g Tributa Comitia erant, cum ex regionibus & locis suffragabantur.* It was so called either *á tributo dando*, every severall region or quarter paying such a tribute: or *quia primo tres tantum fuerunt*, the whole City being at first divided only into three regions, or wards, each national Tribe having his several region, or local Tribe to dwell in. The first national tribe called *Ramnenses*, did inhabit the Mount *Palatine*, and the Mount *Cœlius*; and those two hills made the first local tribe. The second national tribe called *Tatienses*, did inhabit the *Capitol*, and the *Quirinal* Mountain, which two

g A gel. l. 15. c. 27.

Mountains made the second local tribe. The third national tribe did inhabit the plain between the *Capitol* and the *Palatine* Hill, and that plain was called the third local tribe. Of these tribes more is spoken in the first division of the Roman people. Only here we must note thus much, that in process of time, after the City was inlarged, and the number of the Roman Citizens increased, these local tribes were also augmented, so that they amounted at the last to the number of 35. some of them being called *Urbanæ*, others *Rusticæ*; *h Urbanæ ab urbis regionibus. Rusticæ ab agri partibus erant nuncupatæ.* And of those two sorts, the *Tribus rusticæ* were accounted the more honourable. Moreover we must remember, that a man might be reputed of this or that tribe, although he had no place or habitation therein. Concerning the place where these *Tributa comitia* were had, sometime they fell out to be in the *Campus Martius*, sometimes in their great Hall of Justice called *Comitium*, sometimes in the *Capitol*; many times in other places, according to the discretion of the Magistrate which caused these Assemblies.

h Sig. de jur. Rom. l. 1. c. 3.

CAP. 6.
De Candidatis.

IT shall not be impertinent to annex some necessary observations touching the Roman Petitors or Suitors for bearing office: where we will observe these three phrases, *Ambire magistratum*, *Ire magistratum*, & *abire magistratu*. The first signifieth, to sue for an office: the second, to enter into the office: the third, to depart out of the office. Again, the difference of these phrases, *Conficere legitima suffragia*, *& Explere suffragia*. *i*. The first signifieth, to have so many voices as the law doth require. The second signifieth, to have more voices than any other Competitor, but not so many as the law requireth.

i Rosin. ant. Rom. l. 20. c. 6

These persons were termed *Candidati*, *à toga candida*, from the white gown which they did wear, as it appeareth

eth more at large, where we have ſpoken *de Romana toga.* That they might the eaſier procure the good-will of the people, theſe four things were expected from them. Firſt, *Nomenclatio*, the ſaluting of every Citizen by his name; for the better diſcharge of which, they had a certain follower, which ſhould by way of prompting tell every Citizen his name as he paſſed by, and hence this prompter was ſometime called a *nomenclator*, which word doth properly ſignifie a common crier in a Court of Juſtice, ſuch as call men to their appearance, whence they had their names from *Nomen* and *calo*, an old Latine word to call; ſomtimes *b Monitor*, ſometimes *Fartor ab infarciendo in aures.* 2 *Blanditia*, that is, a friendly compellation by the addition of ſome complemental name, as well-met friend, brother, father, *&c.* 3. *Aſſiduitas*, that is, an hot canvaſing, or ſoliciting men without intermiſſion. Laſtly, *Benignitas*, a bountiful or liberal largeſs or dole of money called *congiarium*, from the meaſure *Congius*, containing a Gallon; becauſe their *l* dole was at the firſt made of oyl or wine diſtributed in thoſe meaſures. Howbeit χάρις χάρισμα, any dole, gift or largeſs in money, or otherwiſe, is called *Congiarium.* The diſtributers of this dole were called *m diviſores & n ſequeſtres*, although ſomtimes *ſequeſter* ſignified a briber or corrupter of a Judg. Likewiſe their bounty or liberality conſiſted in providing great dinners, and exhibiting magnificent ſhews unto the people, *&c.* Where we muſt obſerve, that as often as this largeſs is called *Largitio*, it is taken in the worſt ſence, namely for an unlawful bribing of the ſuffragers under a pretended largeſs, *o Benignitas liberalitatem magis ſignificat quam largitionem.*

Roſin. ant. Rom. l. 7. c. 8

a Cic. orat. pro L. Mur. Mercemur ſervum qui dicteenomina, &c. Hor. l. 1. ep. 6.

b Cic. loco ſupra citato.

l G. Trapez. in Philip. 2.

m Sig. de jur. l. 2. c. 29.

n Bart. Lar. in. orat. pro M. Cœl.

o Cic. orat. L. Muræn.

CAP. 7.

De Romanis veſtibus.

WE may obſerve in reading old Authors, that as well the *Romans* as the *Gracians*, had divers diſtinct

ſtinct habits, or outward veſtiments. The *Grecians* had their Mantle called *Pallium*, the *Romans* their Gown called *Toga*: and by this different kind of garments the one was ſo certainly diſtinguiſhed from the other, that this word *Togatus* was often uſed to ſignifie a *Roman*, & *Palliatus* a *Grecian*. *f Togati pro Romanis dicti, ut Pallati pro Græcis.* Before we proceed, we will firſt obſerve what this *Toga* was, and then how many ſorts there were.

f Sig. de jud. l. 3. c. 19.

g Toga, à tegendo dicta eſt. It was made commonly of wooll, but according to the worth and dignity of the perſon, ſometimes of a courſer, ſometimes of a finer wooll; as we may collect by that of *Horace*

Mihi ſit toga, quæ defendere frigus
Quamvis craſſa queat

g Mic. toxit. in orat. Phil. 2.

Mic. tox. ib. We muſt note with *Texita*, that no woman of any credit did wear the *Roman* Gown, but inſtead thereof did uſe a garment called *Stola*, from στολλω, ſignifying *demitto, quod uſq; ad talos demitteretur*: Whence old Poets, when they would point out unto us an infamous or lewd ſtrumpet, they would term her *i mulierem togatam*. *k* This *Toga* ſometimes was worn open and unruckt; then was it called *Toga aperta*: other times it was tuckt up, and then it was called *Toga precincta*. This cincture or girding up of the gown, was according to *l Sigonius*, threefold; *Cinctura laxior, aſtrictior* and *Cinctus Gabinus*; *Cinctura laxior*, or the looſe kind of girding was ſuch, that nowithſtanding the tuck, yet the tail trailed on the ground; *Cinctura aſtrictior*, the cloſe kind of girding was ſuch, that after the gown had been lapped, or tucked up, it ſhould not reach ſo far as the feet. The first kind of theſe cinctures did argue a remiſs, ſoft, and effeminate mind: the latter did ſignifie the promptneſs or readineſs of the perſon, *m Undè, Alte præcincti, pro expeditis dicti ſunt*. 3 *Cinctus Gabinus* was a warlike kind of girding, not ſo that the whole gown ſhould be tucked up about the middle, but that it being caſt quite backward, the party ſhould gird himſelf with one skirt thereof

i Roſin. ant. Rom.

k Sig. de jud. l. 3. c. 19.

l Sig. ib.

m Sig. ib.

of. *n* This kind of girding was ſo called from a certain City of *Campania*, called *Gabii*, becauſe upon a time the inhabitants of this City being at ſacrifice, were ſet upon by their enemies; at which time they caſting their Gowns behind them, and girding one lappet or skirt about them, went immediately to war, even from the altars, and got the conqueſt. *o* In memory of which ever after, the *Conſul* when he ſhould proclaim war, girded himſelf in like manner. Neither had the *Conſul* alone a peculiar garment when he proclaimed war, but every Souldier in time of war did wear a different kind of garment from the Gown, which they called *Sagum*: we may Engliſh it a Souldiers Coat. Whence *Tully* uſeth this phraſe, *ad ſaga ire*, which *Eraſmus* hath parallel'd with this, *Ad certamen ſe accingere*, to buckle for war. Inſomuch that *Cedant ſaga togæ*, is equivalent to that of the Orator, *Cedant arma togæ*. Touching the difference of the Roman Gowns, I find them diſtinguiſhed by *p Sigonius* according as followeth; in *Togam Puram*, *Candidam*, *Pullam*, *Prætextam*, *Paludamentum*, *Picktam*, *Trabeam*. *Toga pura* was the common ordinary Gown worn by new married women, and *Tanaquil prima texuit rectam tunicam, quæ ſimul cum toga pura tyrones induuntur, novæq; nuptæ. Plin. l.8.c.48.* and by private men at mans eſtate, about the ſixteenth year of their age, at which time they were ſaid *excedere ex Ephæbis*, that is, to be paſt ſtriplings. Notwithſtanding the ſixteenth year was not always ſtrictly without exception obſerved: *q* for *M. Aurelius* was permitted to wear this Gown being but fifteen years old: and *Caligula* did not wear it till the ninteenth year of his age. This kind of Gown beſide that it was called *Pura*, was alſo ſometimes called *virilis*, ſometimes *libera*. It was called *Pura* in reſpect of its pure white colour, being free from all admixtures of purple, or any other colour: and and therefore ſome have termed it ὁλόλευκον, all white, others ἀπόρφυρον, void of purple. It was called *virilis*, becauſe it was given to ſtriplings, now growing to mans eſtate.

n Serv. Æn. id. l. 7.

o Alex. Gen. dier. l. 1. c. 14.

p Sig. de Jud. l. c. 3. 19.

q Roſin. ant. l. 7. c. 30.

Et toga non raſtas vincere juſſa nives. Mart.

Whence we uſe to ſay of a ſtripling paſt ſixteen years of his age, *virilem togam ſumpſit*, he is now become a man. Laſtly, it was called *libera*, [r] becauſe then they did receive ſome beginnings of freedom, as being about that time freed from their ſchoolmaſters and overſeers. This kind of Gown was not made open, but ſewed down to the bottom, and alſo it was made without ſleeves, ſo that if at any time they had occaſion to uſe their arms, they would take up their Gown and caſt it quite behind them, or upon their ſhoulders. But theſe ſtriplings could not for one whole years ſpace, caſt back their Gowns in that manner for their liberty of their arms without the imputation of immodeſty, as appeareth by [t] *Cic. Nobis annus erat unus ad cohibendum brachium toga conſtitutus.* The like liberty it ſeemeth was denied thoſe that ſtood for places of office: [u] and thence it is, that *Horace* wiſheth ſuch to hire them a ſervant,

——*Lævum*
Qui fodiat latus, & cogat trans pondera dextram
Porrigere——

In which place by *Pondera* is underſtood the Roman Gown, as [x] *Sigonius* hath expounded that place. Now for the underſtanding of *Toga candida*, we are to learn a difference between this *candida toga*, and the *toga pura* above ſpoken of, which is ſometimes called *toga alba*, both of which were white, but differed in the degree of whiteneſs. The *toga alba* had only the natural whiteneſs of the wooll, the *toga candida* had an artificial white dye, whereby the gloſs of the white was made more orient and intenſive. Or elſe as [y] *Sigonius* hath obſerved out of *Iſidorus*, *intendendæ albedinis cauſa cretam addiderant*, that is, they chalked it to increaſe the whiteneſs thereof. And hereunto *Perſius* alludeth:

——*Quem ducit hiantem Cretata ambitio.*

Whence *Polybius* calleth it *togam*, λαμπρὰν, that is, ſhining or ſplendent. Moreover, whereas the *alba toga* was the ordinary Roman Gown which commonly the Roman Citizen

r Roſin. ant. Rom. l. 5. c 32.

Alii manu.

t Cic. in orat. pro Cœlio.

u Sig. de Jud. l 3. c 19.

x Sigon. ib.

y Sigon. ib.

Citizens did wear, this *candida toga* was only worn by thoſe which did *ambire magiſtratum*, ſue for a Magiſtracy, or place of office, who during the time of their ſute, were called from their Gown, *Candidati*: and *Quintilian* borrowing his Metaphor from them, hath called a young ſtudent *eloquentiæ candidatum*. The third ſort of Gown, which I termed *Togam pullam*, was a black Gown, and thereof were two ſeveral kinds: the one coal-black, which was worn *luctus cauſa*, in token of mourning; and the mourners were thence called *Atrati*, and as often as they did wear this Gown, they were ſaid *mutare veſtem*, z which phraſe in old Authors, doth ſignifie nothing elſe but to go in mourning apparel: The other not coal-black, but only foul'd or ſtained, and that was worn *reatus cauſa*, in times of arraignment, and thoſe that wore it, were called *Sordidati*, *à ſordibus in veſte*, from the ſpots or ſtains in the Gown. Where we muſt note, that in proceſs of time *Toga pulla* became the ordinary Gown which the common people did wear; at which time the ordinary Gown which the Citizens of better place and eſteem did wear, was the *toga candida*; whereupon there did then grow a diſtinction of the Citizens, unknown to the former age, ſaith *Roſinus*, namely, that ſome were termed *candidati*, others *pullati*: *Candidati* were thoſe, not which became ſuters for places of Office (as in old time it ſignified) but thoſe which did live in better repute than others; from whence it is, that *a* he whoſe office was to read the Emperours Letters in the Senate, was called *Candidatus Principis*, or *Quæſtor candidatus*. It did ſomewhat reſemble the Office of the King his Majeſties chief Secretary. *Pullati* were thoſe of the commonalty or inferiour ſort. The fourth ſort of Gown was the *Toga prætexta*, ſo called, *quia ei purpura prætexta erat*, becauſe it was guarded about with purple ſilk. This kind of Gown at the firſt was uſed only by the *Roman* Prieſts, and chief Magiſtrates: Neither was it lawful for ſuch as did wear that Gown to be arraigned, or ſentence to be given on them,

z Sig. de Jud. l. 3. c. 19. Cic. orat. pro P. Sext. Suum dolorum veſte mutare ſignificabant Romani.

a Feneſt. de Mag. Rom. c. 3.

until that Gown was put off. In continuance of time this *toga prætexta* was permitted first to Noble mens children, afterward to all *Roman* children in general: whereupon *b Togatus à prætexto differt ut privatus à magistratu, & vir à puero*; and *ætas prætexta* is taken for childhood, and *prætextati* sometimes for Magistrates, but commonly for young children. The fifth sort of Gown was called *Paludamentum*; it was a Military garment, which *c* none but the Lord General, or the chief Captains did use to wear. *d Isidorus* said it was not only guarded with purple, but with scarlet and gold lace: whence it was sometimes called *e Toga purpurea*, sometimes *coccinea*. It was much like the habit which the *Grecian* Emperour was wont to wear, called *f Chlamys*; yea, now it is called *Chlamys*; we may English it an *Heralds* Coat of Arms. The sixth sort of Gown was called *Toga picta*, *g* because in it was embroidered goodly pictures with needle-work: It was also called *Purpurea*, not because of any purple-guard (in which respect the *Prætexta*, and the *Paludamentum* were called *Purpurea*) but because it was all over of a purple dye: it was by some termed *toga palmata*, because in it many Palm branches being the reward and token of Victory were wrought, whence by others it was called *toga triumphalis*, because Emperours in their triumphs did wear such Gowns. The last sort of Gown was *Trabea*, whereof there were *h* three several kinds; the one woven all of purple, which was consecrated unto the gods, the second was purple woven upon white, and this only Kings and Consuls might wear: the third was scarlet woven upon purple, and this the *Augures* onely did wear. *i* This last sort was therefore called *Trabea auguralis*, the second *Trabea regia*, the third *Trabea consecrata*.

b P. Pelitar. in orat. pro *A.* Cœcinna.

c Alex. Gen. dier. l. 5. c. 18.

d Sig. de Jud. l. 3. c. 19.

e Sig. ibid.

f Rosin. ant. l. 5. c. 31.

g Sig. de Jud. l. 3. c. 19.

h Serv. Æn. l. 7

i Alex. Gen. dier. l. 5 c. 18.

CAP.

CAP. 8.
De Tunica.

THoſe Coats which were worn under the Gown, were called *Tunicæ*; and that they were worn under the Gown, it appeareth by that Adage, *Tunica pallio propior eſt*, that is, Every one for himſelf firſt; or according to our Engliſh Proverb, Cloſe ſitteth my ſhirt, but cloſer ſitteth my skin. *k* This *Tunica* was both narrower and ſhorter than the Gown: at firſt it was made without ſleeves, afterwards with ſleeves, and by it, as well as by the Gown were Citizens diſtinguiſhed. The firſt ſort of Coats was made of white cloth commonly, *l* but purfled over and embroidered with ſtuds of purple in manner of broad nail heads; whence it was called *Laticlavia*, or *Latus clavus*; and the perſons wearing this Coat were Senators, called thence *Laticlavii*. The ſecond ſort belonged unto the *Roman* Knights, and it differed in making from the firſt, only that the purple ſtuds or embroidred works of this, were not ſo broad as the former: whence the Coat was called *Anguſticlavia*, or *Anguſtus clavus*, and the perſons wearing it were called *Anguſticlavii*. The third ſort belonged unto the populacy, or poorer ſort of *Romans*: it was made without any purfled works, being called *Tunica recta*. This Coat was given together with the *virile* Gown to ſtriplings paſt ſixteen years old, and to new married women. And as the *recta tunica* was given with the *virile* Gown; ſo was the *tunica clavatæ* given together with the *toga prætexta*; and the *laticlavia*, otherwiſe called *tunica palmata*, given with the *toga picta*. The fourth and laſt ſort belonged unto women, being a long Coat reaching down unto the heels: they called it *Stolam*. Upon it they did wear an outward garment *m* called *pallium*, and ſometimes *palla*, *quia palam geſtabatur*. *n* *Sigonius* ſaith, that this *palla* was a certain gown uſed by Stage-players: howſoever certain it is that

k Sig. de Jud. l. 3. c. 20.

l Salmuth in Pancir. lib. rerum deperdit. c. de ſib.

Vid. Turneb. adv. l. 1. c. 2.

m Roſin. ant. l. 5. c. 35.

n Sig. de Jud. l. 3. c. 19.

not only women, but men also and children did wear this kind of garment. Besides the *Roman* Gown and Coat, there remain other parts of their apparel to be spoken of: such are these which follow; *Lacerna*, which some do English a Cloak, but *o Festus* would have it to be a little kind of Hood, which men should wear to defend themselves from the rain and weather: it was made that either side might be worn outward: and at first it was worn only in war, so that *lacernati* stood in opposition with *togati*: *p Isidorus togatos pro urbanis, lacernatos pro militibus usurpatos scribit.* Afterward, as we may conjecture, it was made longer, in manner of a Cloak, for it was divers times worn upon their Coats in stead of Gowns. Another kind of garment was the *Penula*, so called *quasi pendula*, we may translate it a long hanging Cloak. A third was called *Mitra*, which sometimes did signifie a certain attire for womens heads, as a Coif, or such like; though this kind of attire was more properly called *Calantica*: other times it signified a Girdle, which more properly was called *Zona*: this *Zona* chiefly signified a Souldiers Belt, or a marriage Girdle. The Souldiers Belt was lined within in the inside, where when they went to war they did put their money, whence *Horace* saith of a man that hath lost his money, *Zonam perdidit*: and ζώσασθαι to be girt, signifieth ἐνδύναι τὰ ὅπλα, *Arma induere*, *Cœl. Rhod. l.* 22. 19. haply because that part of the body which was girt, was consecrated to *Mars*, as the Forehead was to every mans particular *genius*, the Arms to *Juno*, the Brest to *Neptune*, the Reins to *Venus*, the Feet to *Mercury*, and the Fingers to *Minerva*, *Alex. ab Alex. l.* 2. *c.* 19. Young maids when they were married were wont to have a marriage Girdle tied about their middle, which their husband at the first night of their marriage should untie: whence *Zonam solvere* hath been translated to deflour a Virgin. This marriage Girdle in former time was called *Cestus*, from whence cometh the Latine word *Incestus*, and the English word *Incest*: which in truth

o Sig. ibid.

p Sig. ibid.

truth ſignifieth all kind of pollution committed by undoing, or untying this Girdle, called *ceſtus*: But now in a more ſtrict acception it ſignifieth only that kind of naughtineſs which is committed between two near of kin; *q* and that other folly which is committed with a ſtrangers wife, is now properly called *adulterium*; and that which is committed with a maid or widow, *ſtuprum*. The laſt thing touching their apparel is their ſhoes, *r Calceamentorum genera duo fuerunt, calceus, & ſolea.* For the ſoal of the ſhoe, called in Latine *ſolea*, ſometimes *crepidula*, and in *Cicero* his time *gallica*, was tied on to the bottom of the foot with leathern ſtraps or buckles, and ſo worn inſtead of ſhoes. The divers kinds of theſe ſhoes did diſtinguiſh the Roman people alſo. To omit the difference in colours, we may reduce the chief kinds to five heads, *Mullei*, *Uncenati*, *Perones*, *Cothurni*, *Socci*, all theſe ſorts of ſhoes were made half way up the leg, as the Turkiſh ſhoes are, according to *Joſephus Scaliger*; and they were either laced cloſe to the leg, as many of our boots are now adays; or clapſed with taches, or haſps. The firſt ſort called *Mullei* *ſ* from the fiſh *Mullus*, being like unto it in colour, were alſo called from their claſp *t calcei lunati*, becauſe the claſps were made in form of a half Moon, which half-mooned claſp reſembling a Roman C, ſignified a hundred, *u* intimating thereby that the number of the Senators (they onely being permitted to wear this kind of ſhoe) were at firſt a full hundred and no more. Others are of opinion that they wore this mooned claſp, to put them in mind that the honour to which they had attained, was mutable and variable as the Moon. For they think that theſe *Lunati calcei* were not received as a token of Nobility onely at *Rome*, but in other places; to which purpoſe they interpret that of the Prophet *Eſai*, *cap.* 3. *In die illo auferet Dominus ornamentum calceorum & lunulas. Cœl. Rhod. lect. ant. l.* 20. *c.* 28. *Uncenati calcei*, were thoſe, which the Souldiers were wont to wear; I take them to be the ſame with thoſe

q Cœl. in orat. pro Milone.

r Roſin. ant. Rom. l. 5. c. 36

ſ Salmut. in Pancir. lib. rerum deperdit. cap. de Fibula.

t Appoſitam nigræ lunam ſubtexitalutæ Juv.

u Salmut. in Pancirol. l. 1. rerum deper. c. de Fibul.

those which they called *Caligæ*, from which kind of shoes *C. Cæsar Caligula* had his name, because he was born in the Army, *Quia natus in exercitu fuerat, cognomentum calceamenti militaris*, i. e. *Caligulæ, sortitus est. Aurel. Vict. de vita Imperat.* *Perones* (as we may conjecture) were laced up the leg: for *Tertullian* making but two sorts of shoes, saith, there were the *Mullei* called from their clasps *Lunati*, and the *Perones* made without such half-mooned clasps, called also *Calcei pueri, quoniam ex puro corio fiebant*; and these *Perones*, or *puros calceos* all the other Romans did wear, [x] with this note of distinction, that the Magistrates shoes were beset with precious stones, private mens were not. Thus much concerning both the kinds and fashion of the shoes may be collected out of *Rosinus* in the place above quoted. The description and use of the *Cothurnus* and *Soccus*, may be seen in the Tract *De Romanis ludis*.

[x] Salmuth. in Pancirol. lib. 2 rerum deperdit. de calsibul.

LIB.

LIB. III. SECT. II.

Of the Roman *Magiſtrates.*

CAP. I.

De Magiſtratibus Romanis.

WE being to treat of the *Roman* Magiſtrates, will firſt ſee what the definition of a Magiſtrate is. A Magiſtrate is he *o* who receiveth by publique authority, the charge and overſight of humane affairs belonging to the Common wealth. Theſe *Roman* Magiſtrates were either to be choſen only out of the better ſort of *Romans*, called the *Patricii*, or elſe only out of the commonalty. *p* The firſt were thence called *Magiſtratus patricii*, the ſecond *Magiſtratus plebeii*. The *Patricii* had power to hinder the Aſſemblies of the people; namely, their *Comitia*, by obſerving ſigns and tokens from the heavens: howbeit ſome of them had greater power, others leſs; inſomuch that ſome were called *Majores Magiſtratus, quoniam habebant majora auſpicia, id eſt*, q *magis rata*. Others were called *minores magiſtratus, quoniam habebant minora auſpicia*. Of theſe in their order.

o Sig. de jure Rom. l. 1. c. 20.

p Sig. de jure Prov. l. 3. c. 1.

q Feneſt. de Magiſt. Rom. c. 1.

CAP. 2.
De Regè & Tribunis Celerum.

IN the infancy of *Rome*, it was governed by a King unto *Tarquinius Superbus* his time, who by maintaining that thameful act of his Son towards *Lucretia*, did ſo incenſe the people, that they did not only for the preſent exile him, but decreed that their City ſhould never after that be governed by a King. This King had abſolute rule and government over the City. For the ſafety of his perſon he had three hundred choſen young men always to be attendant about him, much like unto our Kings Majeſties Guard here in *England*, or rather his *Penſioners*. They were called *r Celeres à celeritate*, from their readineſs in aſſiſtance: ſometimes they were called *Troſſuli*, *ſ* becauſe they alone without the help of any foot-men did take a certain City in *Etruria* called *Troſſulum*. Other times they have been called *Elexumines*, whereof as yet there hath been no certain reaſon rendred. Each hundred of them had their ſeveral overſeer called *Centurio*: and over them all there was one general overſeer, and chief commander, whom they called *Præfectum vel Tribunum Celerum*, his place being next to the King. A ſecond ſort of attendants about the King were called *Lictores à ligando*, according to that, *Lictor colliga manus*. They were by the *Grecians* called ῥαβδοῦχοι, which we may render Virgers from ῥάβδος a Rod, and ἔχω, to have: though ſometimes ῥαβδοῦχοι do ſignifie the ſame as ῥαψῳδοί, The Rehearſers of *Homers* verſes, or in general of any other *Poets*; ἀπὸ τοῦ ῥαπτειν ᾠδάς, from patching together other mens Poems. For the Reciters of *Homers* verſes were wont to hold a Rod or Wand in their Hand during the time of Rehearſal. *Cœl. Rhod. l. c. 29.* They did ſomewhat reſemble our Serjeants, there being in number twelve of them. Their office was to carry certain bundels of birchen-rods, with an axe wrapped up in the midſt of them: the

r Plutarch. in Romulo.

ſ Plin. l. 33. c. 2.

the rods in *Latine* were called *Fasces*, the axe *Securis*. *t* The reason why they carried both axes and rods was to intimate the different punishment that belonged to notorious and petty malefactors. The reason why they were wrapped up together, was not only that they might thereby be more portable, but that the anger of the Magistrates might be somewhat allayed, whiles they were unbinding. Hence, because these *Fasces virgarum & securum*, did betoken honour and chiefdom in place and authority, by the figure *synecdoche*, this word hath been used to signifie honour and dignity, as *Fascibus suis abrogatis*, he being discharged of his magistracy or dignity. And *Fasces submittere* to give place, or yeild unto. *Valerius Publicola* gave occasion of the Proverb. He to insinuate himself into the hearts of the people, is said, *Submittere fasces populo quoties prodiret in concionem*. Some interpret it, as if he were wont to command the Serjeant quite to depart out of the Assembly with their rods, which opinion *Plutarch* in *Publicola* confuteth writing thus: αὐτὰς τε τὰς ῥάβδους εἰς ἐκκλησίαν παρὼν, ὑφῆκε τῷ δήμῳ κατέκλινε. *Fasces ipsos in concionem progressus populo submisit inclinavitque*. So that the phrase signifieth properly, the not holding up of the rods, or rather the laying them down as it were at the feet of the people. *Cæl. Rhodig. l. 12. c. 7.*

t Joac. Camerarius in orat. pro Flacco. Immedicabile vulnus Ense recidendum, &c.

CAP. 3.

De Senatu, & quis Princeps Senatus, & qui Senatores Pedarii?

TOuching the election of the *Senators*, the number of them, and the distinction of them into *Senatores majorum* and *Senatores minorum gentium*, sufficient hath been delivered in the second division of the *Roman* people; as likewise in the third division hath been shewn the habit or gown by which the *Senators* were distinguished from the *Roman* Gentlemen. Here therefore it shall be sufficient for us to understand, that every solemn meet-

ing, or consistory of these *Senators* was called *Senatus*. The foreman of them (which could be no other then such, as had been either *Consul* or *Censor*, was called *Princeps Senatus*, and his opinion was always first asked. Now among those that had born those foresaid offices, it was in the *Censors* power to make whom he would fore-men. The degree of this consistory was called *Senatus-consultum*. And many times it is written with these two letters only, S. C. In like manner their preface to these decrees was commonly these two capital letters B. F. That is *Bonum factum*. *Sueton. Jul. Cæs. cap.* 80. and it had the same use as, *In nomine Dei* with us. The place where this consistory was had they called *Senaculum*. None was *u* ordinarily admitted into the place of a *Senator*, before the five and twentieth year of his age; and of those that were admitted, some were allowed to ride unto the Senate-house in a Curule-chair, namely when they had born such office, which gave them right unto that chair: others which had not born such office went on foot: *x* whence these latter were called *Senatores pedarii*. They determined their acts which they called *Senatus-consulta*, sometimes by departing down their benches, and dividing themselves into sides; those which did approve that which was proposed, sided with the party who did *Referre ad senatum*, that is, propose the matter unto the Senate; the others departed unto the contrary side; or if they came not down at all, but sate still on the benches, then did they signifie by holding up, or beckning with their hands, what side they would take. Now if the major part were easie to be discerned, then they rested there, tearming that act to be decreed *y per discessionem*: and hence these and the like phrases have taken their beginning, *In illius sententiam iturus sum*, and *Manibus pedibusque discedere in alicujus sententiam*, that is, to be fully perswaded of ones opinion. Now if both companies were almost equal, so that the major part could not easily be discerned, then did they proceed to give their voices, and that which was thus deter-

u Mart. Phileticus, in Cic. l. 3. ep. fam 1.

x Mart. Phileticus ibid. It. A. Gel. noct. Attic. l. 3. c. 18.

y Hubert. in Cic. lib. 1. ep. fam. 29.

determined was said to be decreed, *per singulorum sententias exquisitas*, that is, by voices. Here we may observe that to those, who were favourably heard in *Senate*, *His senatus dare dicebatur*; and *z* likewise they were said, *Stare in Senatu*: as on the contrary they were said *iacere*, whom the *Senate* neglected or rather condemned. *a Cum mihi stanti iacens minaretur*, saith *b Tully*. If any Senator were absent without a lawful excuse, then was he fined; and for the payment thereof, he did put in a pledge, which if he did not ransome, then did the common Treasures *Cadere vel concidere pignora*, that is, strain or seize upon the pledges, making common sale thereof, in which sense those two phrases are used, namely, *capere pignora*, *& auferre pignora*, that is, to strain or seize upon a mans goods.

z Ascensius in Cic. l. 1. epist. fam. 4.
a Cic. orat. de arusp. respon.
b Rosin. antiq. l. 7. c. 7.

CAP. 4.
De Consulibus.

AFter the expulsion of *Tarquinius Sup.* the last *Roman* King, all the Citizens in *Rome* Assembled, and concluded that the government of the City, which before was in the hand of one alone governour, called their King, should now be divided between two: *c* who at first (before there was any such subordinate office as a *Pretorship*) the *Romans* called *Prætores*, *quod præirent populo*. Not long after they were called *Judices*, *à judicando*. In processe of time they were known by no other name then *Consules à consulendo populo*. *d* No Citizen, was ordinarily created *Consul* before the forty third year of his age. Neither might any be chosen without special dispensation, either of their absence out of *Rome*, *e* or in time of their triumph; which was the reason that *Julius Cæsar* was glad to forgo his triumph at that time when he was *Consul* with *Bibulus*. The signs or tokens of this *Consular* dignity were the twelve *Lictors* carrying their bundles of rods and axes *f* the first month before one

c Rosin. ant. Rom. l. 7. c. 9.
d Cic. orat. Phil. 5.
e Suet. Jul. Cæs. cap. 18.
f Alex. Genealog. l. 3. c. 3.

Consul,

Consul, and the second before the other, as formerly they had done before the Kings. * Now he that had the rods carried before him in the first moneth, either he had more children than the other, for the *lex Julia* gave precedency to him who had most children, or he was elder than the other, or in time of the election he was pronounced before the other, for which respects he was called *Consul major*, and *Consul prior*. *g* The reason why each Consul had not twelve *Lictors* alwayes, was because the tyranny of the Consuls might then seem to be doubled, and to exceed the tyranny of the Kings. Another token was a certain Chair of Estate called *Sella eburnea*, that is, an Ivory chair, so called from the matter whereof it was made; and *h* because this chair was commonly carried about in a certain Coach or Chariot, wherein the Consul did ride, hence from *Currus* which signifieth a Chariot, it is also called *Sella Curulis*; where *i* note that the word *Curulis* is sometimes used substantively, and then it signifyeth some chief Magistracy or office among the Romans. The gown by which they were distinguished from other Magistrates or private men, was a certain purple gown, which from the great embroidered works was called *Trabea*, and he that did wear it, was thence called *Trabeatus*, according to that, *Trabeati cura Quirini*. It will be worth the observation to note, that the Romans did date their Deeds and Charters in old time, by naming the year wherein their City was first founded; as to say, *Ab urbe condita*, the twentieth, thirtieth, or fortieth year, &c. But in process of time their manner of dating was by subscribing the names of their present Consuls, as to say, such a thing was determined. *L. Valerio, M. Horatio Consulibus*, such and such being Consuls: whence *Suetonius* speaking of *Julius Cesar*, saith, he was appointed to be *Flamen Dialis, sequentibus Consulibus*, that is, the next year following. Yea, this was so common a date, that to know the age of their wines, they signed their vessels with the names of their Consuls, adding withal, that

* Cœl. Rhod. l. 12. c. 7.

g Feneſt. de Mag. Rom.

h A. Gel. l. 3. c. 18.

i Stadius in Flor. l. 1. c. 5.

that they might know the goodness of their wine, the name of the countrey whence it came, according to that of *Juven. Sat.* 5.

------Cujus paeriam, titulumq́; senectus.
Delevit multa veteris fuligine teste. Turn. adv. l. 1. *c.* 1.

Those alone who had born the office of a Consul, not every one that was capable thereof, were said to be *Viri consulares.* *k* At the first those who were created Consuls remained in their office the space of a whole year, being *designati ad consulatum* upon the twenty fourth of *Octob.* *l Ad consulatum non inierant ante Calendas Jan.* that is, the first of *January.* The reason of this chasme, or *interim* between their designation unto their office, and their entry into it, was (as we may probably conject) that the Competitors might have some time to enquire *de Ambitu*, that is, whether there was no indirect and unlawful means used in their canvasing. In process of time, either by voluntary resignation, or deposition, or death, many Consuls have been chosen in the same year, and they were called *m Non ordinarii, & suffecti Consules.* At such times all their deeds were dated by the names of the two first Consuls which began the year: whence those two first, and likewise all those that continued in their office the whole year, was called *n Consules Honorarii*, and *Consules Ordinarii.*

k Tistinus in orat. Cic. pro Cælio.

l P. Ramus in orat. Cat. 1.

m F. Sylv. in Cic. orat. pro Mur.

n Rosin. ant. Rom. l. 7. c. 9.

CAP. 5.
De Censoribus.

THe Consuls finding themselves incumbred with so many businesses of a different nature, did by consent of the Senate choose two peculiar Officers, called *o Censores à censendo*, because they sessed and valued every mans estate, registring their names, and placing them in a fit century. For it did concern the Romans to know the number, and likewise the wealth of the people, to the end they might be informed of their own strength, and

o Fenest. de Mag. Rom. c. 17.

and ſo ſhape their courſe accordingly, either in undertaking wars, tranſplanting Colonies, or in making proviſion of victuals in time of peace. A ſecond and main part of their office was in reforming manners, to which end they had power to enquire into every mans life. This part of their authority was noted out unto us by this phraſe, being called *Virgula Cenſoria*. If any one had played the ill husband, and neglected his Farm, or left his vine untrimmed, the Cenſors took notice thereof. They did *Senatu & Tribu movere*, i. e. they did depoſe Senators and pull down men from a more honourable Tribe, to a leſs honourable. *Diminutio maxima* was the loſs of ones Tribe, City and Freedom. Theſe Cenſors were reputed of the beſt rank of Magiſtrates in *Rome*; they remained in their office an whole five years ſpace ordinarily; I ſay ordinarily, becauſe *r* through the abuſe of their place, the office had been made ſometimes annual. *ſ* That five years ſpace the Romans did call *Luſtrum*, becauſe they did once in every five years revolution *Luſtrare exercitum Romanum*, by ſacrifice purge the Roman Army. Hence we ſay *duo luſtra*, ten years, *tria luſtra*, 15 years, *&c.* The performance of this *Luſtration* belonged alſo unto the Cenſors: for after the Cenſors had performed the one part of their office, in regiſtring the juſt valuation of every Citizens eſtate, *t* they did lead a Sow, a Ram, and a Bull three times about the Army, and in the end ſacrificed them unto *Mars*: and thus to purge an Army, is, *condere luſtrum*; though ſometimes *condere luſtrum* doth ſignifie, to muſter an Army. Theſe ſacrifices, as likewiſe all others of the like nature, that is, wherein there was a Sow, a Ram, and a Bull ſacrificed, were termed ſometimes *u Suo-vetauralia*, ſometimes *Solitauralia*, ſometimes *x Taurilia*. Moreover it did belong unto theſe Cenſors to farm out the Tributes, Impoſts, Tollage, *&c.* *y* At the five years end, the acts of both their Cenſors were regiſtred upon books of record, which records were laid up in a certain religious houſe dedicated

r Feneſt. de Rom. Mag. cap. 7.

ſ Pomp. Læt. de Rom. Magiſt. cap. de Cenſor.

t Pancirol. l. rerum deper. c. de cibi capiendi modo.

u Alex. Gen. dier. l. 5. c. 27.

x Pomp. Læt de mag. Rom. c. de Cenſor.

y Parcirol. lib. rerum deperdit. c. de cibi capiendi modo.

to

to the *Nymphs*. Whence z *Cicero* ſpeaking of *Clodius*, ſaith, *Qui eadem Nympharum incendis, ut memoriam publicam incenſis tabulis publicis impreſſam aboleret.*

z Cic. pro Milone.

CAP. 6.
De Prætoribus.

THe Conſuls by reaſon of their many troubles in War, having no time to adminiſter juſtice unto the Roman people, did for the better help therein, create two new officers for the executing of juſtice, the one to examine and judge of matters within the City between Citizen, and Citizen ; The other to decide controverſies between forreigners; The firſt they *a* called *Prætorem urbanum*, and *Prætorem majorem* ; the other *Prætorem peregrinum*, *& Prætorem minorem*, we may Engliſh them Lord Chief Juſtice. Where we muſt note that at the firſt there was only the *Prætor urbanus*, until the caſes and ſuits in law became ſo many, that one was not ſufficient to hear them all, *b* yea at laſt the number of the *Prætors* came to 16. namely, when thoſe two were added for the providing of corn and grain ; whence they were called *Prætores Cereales* ; *c* nay there were at laſt 18. *Prætors*, there being two others added to judge of controverſies touching feoffments of truſt, called the nce *Prætores fidei commiſſarii*. *d Cauſarum duo genera ſunt, aliæ privatæ, aliæ publicæ ; has criminoſas, illas civiles appellant.* In thoſe caſes which were private, that is, *e* touching equity and uprightneſs of any act, or the reſtitution of any money or goods unlawfully detained from the right owner, it belonged principally unto the *f* two firſt *Prætors* to judge; *g* but under them unto the *Centum-viri*, who oftentimes are called by *Tully Recuperatores*, and *Judices haſtæ* ; the Court *Haſta centum-viralis*, becauſe one of the marks and ſpecial enſigns was a ſpear erected up in the place the Court was kept. Thoſe caſes which were publick or criminal, as Treaſon, Murther, Buying of voices in the

a Pighius æquip. comp.

b Alex. Gen. dier. l. 2. c. 15.

c Feneſt. de Mag. Rom.

d F. Sylv. in orat. pro Mur.

e I. Saxon. in Cic. orat. pro S. Roſc.

f Roſin. ant. l. 7. c. 11.

g Saxonius ibid.

canvaſing of Offices, &c. were called alſo *cauſæ capitales* and *capitis dimicatio*, that is *h* ſuch caſes wherein if the party accuſed had been found guilty, he was *capite damnatus*: by which phraſe we muſt not uuderſtand always *Ultimum ſupplicium, ſed aliquando exilum, quo ſcilicet caput*, that is, *cives eximitur à civitate*. *i* Theſe caſes at the firſt were heard by the Kings and Conſuls; afterward by certain appointed thereunto by the people, being called from their inquiſition *quæſitores parricidii*. In continuance of time the examination and hearing of theſe publick caſes was turned over unto certain Magiſtrates, who becauſe they were to continue their office a full and entire year (whereas the others had their authority no longer then they ſat in judgement) were thence for diſtinction ſake called *Prætores Quæſitores*, and the caſes were termed *Quæſtiones perpetuæ*: *k* becauſe in theſe caſes there was one ſet form of giving judgement perpetually to remain; whereas in thoſe private or civill cauſes the *Prætor* did commonly every year change the form of giving judgement by hanging up new edicts. *l* Here we muſt note, that theſe *Quæſitores parricidarum*, otherwiſe called *Prætores Quæſitores*, had not the examination of all publick caſes, but ſometimes upon extraordinary occaſions either the Conſuls, the Senate, or the people themſelves would give judgement. Now as thoſe former *Prætors* had a ſpear erected up, whereby their Court for private cauſes was known; ſo had theſe *Quæſitores* a ſword hanged out in token of their Court. *m* *Prætorem inſignia duo fuere, haſta & gladius, illa ad juriſdictionem, hic ad quæſtionem ſignificandam.* The officers which did attend theſe *Prætors* were *Scribæ*, *i. e.* certain Notaries much reſembling the Clerks of our aſſiſes, their office being to write according as the *Prætors* or chief Juſtices had bid them, taking their nome *à ſcribendo*. The ſecond ſort were called *Accenſi ab accicndo*, from ſummoning, becauſe they were to ſummon men to their appearance. They much reſembled our Bayliffs errant. The third ſort were *Li-*

h F. Sylv. in orat. pro Mur.

i Roſin. ant. l. 9. c. 11.

k Roſin. ant. l. 7. c. 18.

l Roſin. ant. l. 6. c. 18.

m Sig. de jud. l. 1. c. 7.

Ctores

Edicts; of which before. *n* The authority of the *Urbane Prætor* was so increased in time, yea his honour was such, that whatsoever he commanded it had the name of *Jus honorarium*. *o* Others are of opinion, that only the *Prætors* edict was that *p Jus honorarium*: the *Prætor Urbanus* being wont at the entrance into his office to collect a set form of administration of justice out of the former laws, and several edicts of former *Prætors*, according unto which he would administer Justice all the year following: and lest the people might be ignorant of the Contents thereof, he caused it to be hanged up to the publick view. This form of Justice was termed *Edictum, ab edicendo*, i. e. *q imperando*; because thereby he did command, or forbid something to be done. Whence *Pellitarius* in the place now quoted doth translate *Consulum edicta*, Mandatory lettes, that it might be distinguished from other Magistrates edicts. It was commonly called *Prætoris edictum*. And as *Pighius* observeth in the place above quoted, it was called *Edictum perpetuum*, not absolutely because the vertue thereof was perpetual, (for that expired together with the *Prætors* office, and therefore *r Tully* calleth it *legem annuam*) but in respect of other edicts made in the middle of the year upon extraordinary and unexpected occasions, which latter sort of edicts *s Tully* calleth *Peculiaria & nova edicta*. Afterward *t Salvius Julianus* collected an Edict out of all the old Edicts of the former *Prætors*, wherein almost all the whole Civil Law was contained, and this was called properly *Edictum perpetuum*, because that all the *Prætors* ever after did administer Justice according to that Edict, by the appointment of *Hadrianus* being then Emperour. The Edicts being given out, the administration of Justice consisted in the use of one of those three words *Do*, *Dico*, *& Addico*, i. e. *u Dat actionem, Dicit Jus, Addicit tam res quam homines*. That is, he is said *Dare*, when he granteth out an action or writ against a man; *Dicere*, when he passeth judgement on him; and *Addicere* when he in

n Feneſt. de Rom. Mag. cap. 19.

o P. Pellit. in Cic. orat. pro A. Cæcinna. *p* Pigh. Æq. per. com.

q P. Pellit. in Cic. orat. pro A. Cœcinna.

r Cic. in Ver.

s Cic. in Ver 5.

t Sig. de jud. l. 1. c. 6.

u I. Camer. Cic. orat. pro Flacco.

the Court doth ſee and allow the delivery of the thing, or the perſon on which judgement is paſſed. The form or Addiction was thus: After judgement had been pronounced in the Court, the party which prevailed, laid his hand on the thing or the perſon, againſt which ſentence was pronounced, uſing this form of words, *Hunc ego hominem, ſive hanc rem, ex jure Quiritium meam eſſe dico.* Then immediately did the L. chief juſtice *Addicere*, that is, approve the challenge, and grant a preſent poſſeſſion. *Ant. in Faſt. l.* 1. For explanation whereof we muſt know, that this word *Addico*, is ſometimes *verbum Augurale*, ſometimes *Forenſe*, ſometimes a term of Art belonging unto the diſcipline of the *Augures*, and ſo the birds are ſaid *Addicere*, when they ſhew ſome good and lucky token, that the matter conſulted about is approved by the Gods: the oppoſite hereunto is *Abdicere*. Sometimes this verb *Addico* is a term of Law, ſignifying as *x* much as to deliver up into ones hands, or into ones poſſeſſion: whence we do not only call thoſe goods that are delivered by the *Prætor* unto the right owner *bona addicta*, but thoſe debtors alſo which are delivered up by the *Prætor* unto their creditors to work out their debt, are termed *ſervi addicti*. Yea moreover, becauſe in all port-ſales it was neceſſary that the *Prætor* ſhould *Addicere bona*, deliver up the goods ſold, hence doth this word often ſignifie to ſell, as *Addicere ſanguinem alicujus*, to take money to kill a man, to ſell a mans life. Touching the reaſon of their name, they were called *Prætores*, *à præeundo*, *quoniam jure præibant*. And *y* thoſe alone were properly termed *viri Prætorii* which had born this office, not they which were capable thereof: In the ſame ſenſe we ſay *Viri Cenſorii* and *Viri Ædilitii*, &c.

x M. Toxita in orat. pro Pub. Quint.

y Fr. Maturantius in Philip. 13.

CAP.

CAP. 7.
De Imperatoribus, Cæsaribus, sive Augustis.

When *C. Julius Cæsar* had overcome *Pompey* his Sons in *Spain*, at his return to *Rome*, the Senate welcomed him with new invented Titles of singular honour, styling him *Pater Patriæ*, *Consul in decennium*, *Dictator in perpetuum*, *Sacrosanctus*, and *Imperator*, all which titles were afterward conferred upon *Octavius Cæsar*; and all the Emperours succeeding him desired to be called *Imperatores & Cæsares* from him. Where we must understand, that this name *Imperator* was not altogether unknown before; for by that name the Roman Souldiers were wont (even at that time) to salute their Lord General after some special conquest. z These Roman Emperours were afterward called also *Augusti* from *Octavius Cæsar*, whom when the Senate studied to honour with some noble Title, some were of the mind that he should be called *Romulus*, because he was in a manner a second Founder of the City: but it was at length decreed by the advice of *Manutius Plancus*, that he should be styled by the name of *Augustus*, which we may English *Soveraign*: And they counted this name of more reverence and majesty than that former name of *Romulus*, because all consecrated and hallowed places were called *Loca Augusta*. The authority of these Emperours was very great, even as great as the Kings in former times.

z Ser. Æn. l. 6.

CAP. 8.
De principibus juventutis, Cæsaribus; & nobilissimis Cæsaribus.

A Custome a was received among the Roman Emperours in their life time to nominate him whom they would have to succeed them in their Empire; and him they called *Princeps juventutis*, *Cæsar & Nobilissimus Cæsar*.

a Rosin. ant. l. 7. c. 3.

Cæsar. The like custome was practised by *Charles* the fifth Emperour of *Germany*, and so hath been continued by his Successors; namely, that one should be chosen whom they called *Rex Romanorum*, who should be so far invested in the Title to the Empire by the means of the present Emperour, that upon the death, resignation, or deposition of the then being Emperour, he immediately should succeed.

CAP. 9.
De Præfecto Urbis.

Romulus for the better Government of the City appointed a certain Officer called *Urbis Præfectus*, to have the hearing of all matters or causes between the Master and the Servant, between Orphans and their Overseers, between the Buyer and the Seller, *&c.* Afterward in time of the Roman Emperours, this *Urbis Præfectus* did assume unto himself such authority, that he would examine and have the hearing of all Causes of what nature soever, if they were *Intra centissimum lapidum*, within an hundred miles of *Rome*: (for *b Lapis* in old time signified a mile, because at every miles end a great stone in manner of a mark-stone was erected.) In the absence of the King or Consuls, he had all authority which belonged unto them resigned unto him. I am not ignorant, that some do make this latter kind of Prefecture, Lieutenantship, a different office from the former: but I should rather think it to be one and the same, only his authority to be more enlarged in the Kings absence: and of this opinion do I find *Feneſtella*, *Alexand. Neopl.* and *c Sigonius*.

b Despanterius in sua syntaxi.

c Sig. de jur. Rom. l. 1. c. 20.

CAP.

CAP. 10.
De Decem-viris, legibus scribendis.

FOr the better administration of Justice, the *d* Romans appointed three men, namely, *e Sp. Posthumius*, *Ser. Sulpitius*, *A. Manlius*, to go to *Athens*, and other Grecian Cities, there to peruse the Grecian Laws: to the intent that at their return, both a supply might be made of those Laws that were wanting in *Rome*, and the other that were faulty might thereby be rectified and amended. At the return of those three men, the Consuls were deposed, and both their Authority and Ensigns given unto *f* ten men newly erected for the Government of the State, and were thence called *Decemviri*. The first elected into this *Decem-virat*, were *Ap. Claudius*, *T. Genutius*, *P. Sextus*, *Sp. Veturius*, *C. Julius*, *A. Manlius*, *Ser. Sulpitius*, *P. Curiatius*, *T. Romul. Sp. Posthumius*: all of them such as had born the office of a Consul. The Laws which they brought from *Athens* were written at first in ten Tables of Brass: afterwards two other Tables were added, at which times those Laws began to be known and distinguished from others by the name of *Leges 12. Tabularum*. And according to those Laws Justice ever after was administred to the Roman people, at first by these ten men appointed thereunto, whose authority was as large even as the Kings and Consuls in old time, only it was annual. One of them only had the Ensigns of honour carried before him, one alone had the authority of convocating the Senate confirming their Decrees, and the discharge of all State businesses; *g* the other did little differ from private men in their habit, only when the first had ruled a set time, the others succeeded by turns. This kind of Government did not continue long in *Rome*; for in the third year all their power was abrogated, because of their Tyranny and Oppression used by them towards the Roman people,

d Feneſt. de Mag. Rom. c. 14.

e Roſin. ant. lib. 7. cap. 9.

f Lip. Reg. Leg.

g Roſin. ant. Rom. l. 7. c. 19.

CAP.

CAP. 11.

De Interregia poteſtate,

f Dion. Halic. lib. 2.

AFter the death of *Romulus*, *f* The Senators divided themſelves into ſeveral Companies, called *Decuriæ*, committing the Government of the Kingdom to that *Decury*, that is, to thoſe ten men, upon whom the lot fell, calling them the *Interreges*. Where we muſt know, that theſe ten did not rule all together, but each man ruled for the ſpace of five dayes, whence *g Roſinus* calleth this Magiſtracy, *Magiſtratum Quinqueduanum*. After that five dayes Government had paſſed through the firſt, then did they go to lots to have a ſecond *Decury* choſen, and ſo a third, *&c.* This office of an *Interrex* remained even in the Conſuls time, ſo that if by ſome extraordinary occaſion the Conſuls could not be created, *h* then they choſe one, to whom alone they committed the whole Government of the Kingdom, and him they called *Interregem*.

g Roſin. ant. l. 6. c. 16.

h Alex. Gen. dier. l. 5. c. 6.

CAP. 12.

De Dictatore.

WHenſoever the Romans found themſelves encumbred with dangerous Wars, or any other eminent dangers, they preſently choſe a *Dictator* to whom alone was commited the Authority and rule of the whole Kingdom, differing from a King only in reſpect of his name and the continuance of his Office. Touching his name, he was ſo called, *quoniam dictis ejus parebat populus*. His Office continued but ſix months, and at the expiration thereof, if need required, he was choſen again for another ſix months. He was alſo called *i Populi Magiſter*, in aſmuch as none could make their appeal from him unto the people. Aſſoon as himſelf was eſtabliſhed in his office, he choſe a ſubordinate Officer,

i Pyghius in Tyran.

ficer whom he *k Equitum Magister*: his authority much resembled his, whom they called *Urbi Præfectum*: for as the *Præfectus urbi* in the absence of the King, so this *Magister equitum* in absence of the *Dictator* had full and uncontroleable authority of doing what he would. *k* Sadius in Fior. l. 1. c. 11.

CAP. 13.

De Tribunis militum.

THese *l* military *Tribunes* were of two sorts. The one had all power and authority, which belonged unto the *Consuls*; and thence were called *Tribuni militum consulari potestate*. The occasion of them was this: The protectors of the commons called *Tribuni plebis*, did earnestly labour that the commonalty might be made as capable of the consular dignity as the Nobility: This was followed so hot, that in the end, though the Nobility would not grant them way unto that dignity under the name of *Consuls*; yet in effect they would grant it them. Namely, the *Consuls* should be deposed, and in their stead other magistrates should be chosen; part out of the Nobility, part out of the commonalty, who though they were not called *Consuls*, but *Tribuni*, yet were they of *Consular* authority: by which they were distinguished from the other sort of Military *Tribunes*, who had power and authority only in matters military, and were known by the name of *Tribuni militum*, without any addition. *n* Sometimes there was one of these three words prefixed, *Rutuli* or *Rufuli*, *Suffecti* and *comitiati*; not thereby to intimate unto us any distinction of office or place, but to signifie their manner of election. For if they were chosen by the *Consules*, then were they called *Tribuni Rutuli*, or *Rufuli*, because they had their authority confirmed unto them by vertue of an Act or Law preferred by *Rutilius Rufus*, when he was *Consul*. If they were chosen by the Souldiers themselves in their Campe, then were they called *Tribuni suffecti*, that is, *Tribunes* substituted or put in *l* Rosin. ant. l. 7. c. 20. *n* Alex. Gen. dier. l. 6. c. 18.

in the place of another. Whence we may conject, that the Souldiers were not permitted to make any election, but in time of need, when their former *Tribunes* were taken from them by ſome violent or unnatural death. The laſt ſort called *Comitiati*, were ſo called becauſe they were choſen by the *Roman* Aſſemblies called in Latine *Comitia*. They were termed *Tribuni*, becauſe at the firſt inſtitution of them (whether we underſtand the Conſular *Tribunes*, or this latter ſort) there were but three of each. In proceſs of time notwithſtanding I find the number not only of thoſe *Conſular Tribunes*, *o* but of thoſe other alſo to have been encreaſed to ſix, accordingly as the thouſands in a legion were multiplied. Theſe latter ſort of *Tribunes*, in reſpect of their Military Diſcipline, which was to ſee the Souldiers being faulty to be puniſhed, we may Engliſh *Knights Martial*: In reſpect that their authority was over foot-men only we may Engliſh them *Serjeants Major*: only this difference there was, to every thouſand of foot-men in any legion, there were as many Military *Tribunes* under their chief Commander called *Imperator*. But in our Engliſh Armies there is but one *Serjeant Major*, who alone under the Lord General hath Command over all the Foot-men, be there never ſo many thouſands.

o Roſin. ant. l. 7. c. 20.

CAP. 14.

De Triumviris Reipub. conſtituendo.

THis tyranny of the *Triumviratus* began by a conſpiration between *Auguſtus Cæſar*, *Antonius*, and *Lepidus*. For theſe three under the pretence of revenging *Julius Cæſar* his death, obtained chief power and authority for the ſpace of five years throughout *Rome*, *p* pretending that they would ſettle the Commonwealth, which at that time by reaſon of *Jul. Cæſars* death was much out of order. Thoſe five years being expired, they refuſed to reſign their authority, exerciſing exceſſive cruelty towards all

p Feneſt. de mag. Rom. cap. 21.

all the *Romans* of what degree soever. *q* This kind of government remained but ten years, neither ever were there any other than those three above named. They had power to enact any New Law, to reverse any former Act, without the consent of the *Senate*, or *Commons*. They might proscribe and banish any *Roman* at their pleasure, and as often as we read *de Trium viratu* simply without any adjunction, or *de Triumviratu Senatus legendi*, we are to understand it of this, though some upon unsure grounds do dis-joyn them.

q Suet. Octa. Aug. c. 27.

CAP. 15.

De Quæstoribus Ærarii.

THis office of the *Quæstors* seemeth not unlike to a publique Treasurers, which collecteth the subsidies, customs, money, yearly revenues, and all other payments belonging to any State or Corporation. And hence *r quoniam publicæ pecuniæ quærendæ præpositi erant*, they took their name *Quæstores*. Sometimes they are called *Quæstors Urbani*, to distinguish them from the Provincial *Quæstors*, which bare office in the Roman Provinces: sometimes they are called *Quæstores ærarii*, to distinguish them from those that were called *Quæstores parricidii*, or *reuum capitalium*, of which you may see more in the tract *de Prætoribus*. *s* Lastly, they were called *Quæstores ærarii*, to distinguish them from the *Tribuni ærarii*, i. e. those Martial Treasures, or Clerkes of the Band which did receive the Souldiers pay from these City-treasurers, and so pay it to the Souldiers. The office of those City-treasurers (then being at first but two) was to receive all the City-accounts; to disburse at all occasions of publique expenses; to take an oath of him that the Souldiers had saluted by the name of *Imperator*, that he had truly informed the *Senate* both of the number of enemies slain, as also of the number of Citi-

r Feneſt de Mag. Rom. c. 3

s Sig. de jure Rom. l. 2. c. 8.

zens loſt; otherwiſe he might barr the Emperour of his triumph. Moreover whatſoever ſpoils were taken in the War, they were delivered up unto theſe *City-quæſtors*, and they ſelling them, laid up the money in the great Treaſure-houſe called *Ædes Saturni*.

CAP. 16.
De Tribunis Plebis.

t Roſin. Epit. rerum, Rom.

THe *t Roman* commonalty finding themſelves oppreſſed by the wealthier ſort, departed unto the *Aventine* mount, threatning the *Roman* Nobility, that they would forſake their City, and never again adventure themſelves in War for the defence thereof, unleſs they did find ſome releaſe and eaſement, from thoſe exceſſive payments of uſe and intereſt unto their Creditours: yea, beſides the remiſſion of their preſent debts, before they would return unto their City again, they would have certain Magiſtrates choſen, which ſhould be *u Sacro-ſancti*, that is, ſuch as might not be hurt or violently uſed, not ſo much as in words: and if any had violated that law, whereby they were made *Sacro-ſancti*, then was he accounted *homo ſacer*, that is, an excommunicate perſon, or ſuch an one whoſe ſoul ſhould be vowed unto ſome God; inſomuch that if any after had killed him, he ſhould not be liable unto judgement: *x quoniam illius anima diis devota amplius humani commercii non ſit.* To thoſe *y* Magiſtrates the protection of the Commons was committed, who becauſe they were at firſt choſen out of the *Military Tribunes*, therefore did they always retain the name of *Tribunes*, being called, that they might be diſtinguiſhed from the others, *Tribuni plebis*, Protectours of the Commons. At the firſt inſtitution of them they were in number but two, as *z* ſome have thought: *a* Others ſay five, afterward (as it is yeilded by all Writers) they increaſed unto ten. Their authority at firſt conſiſted chiefly in this, that they had power to hinder any proceedings

u Roſin. ant. l. 7. c. 25.

x Alex. Gendier. l. 6. c. 14.

y Roſin ant. l. 7. c. 23.

z Pighius in ſuo Tirannifug.

a Pomp. Læt.

ceedings in the *Senate*, which they thought might prove prejudicial unto the Commons, ſo that they had not authority to enact any new Decrees, as afterward by abuſing their authority they did. *b Sed eorum autoritas magis in intercedendo, quàm jubendo.* And hence was it that in old time theſe Protectours of the Commons were not permitted to come into the *Senate*, but *c* they ſate without at the door, whither whatſoever was determined within the *Senate* was ſent unto them, to be peruſed by them, and if they did approve it, then did they ſubſcribe a great *Roman* T, being the firſt letter of this word *Tribuni*. *d* The houſes of theſe *Tribunes* ſtood open night and day, as a common refuge or place of ſuccour for all that would come; *e* neither was it lawful for them to be abſent out of the Town one whole day throughout the year.

b Stadius in Flor. l. 3. c. 2.

c Pigh. in ſuo Tirannifug.

d Roſin ant. Rom. l. 7. c. 23.

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CAP. 17.
De Ædilibus, & Præfecto annonæ.

WE may read of three ſorts of *Roman* Magiſtrates called *Ædiles*, the two firſt had their names *ab ædibus curandis*, having in their charge to repair both temples and private dwelling-houſes which belonged unto the City. The firſt ſort were called *Ædiles curules, à ſella curuli*, from the Chair of State, wherein it was permitted them to ride, and theſe were choſen *f* out of the *Senators*. The ſecond ſort were called *Ædiles Plebii*, and they were added unto the former, at the earneſt ſuit of the Commons, they being to be choſen out of them. Where we muſt note that they were not ſo added, that both ſorts ſhould rule at one and the ſelf ſame time, *g* but that the *Curules* ſhould rule the one year, and the *Plebii* the other. To theſe *Ædiles* it did belong, beſide the reparation of temples and private houſes, to look unto the weights and meaſures in common ſale: for they had power to examine *Actiones redhibitorias*, that

f Philer. in l. 2. Cic. epiſt. fam. 10.

g Alex. Genedier. l. 4. c. 4.

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f Philer. in l. 2. Cic. epiſt. fam. 10.

g Alex. Gendier. l. 4. c. 4.

that is, such actions, by vertue of which he that had sold any corrupt or sophisticated wares, was constrained to take them again. Moreover they had the charge of the publick conduit or water conveyances, of provision for solemn playes, *&c.* Of the third sort there were also two, who were in a manner Clerks of the Market: *h* for unto them belonged the looking unto the victuals sold in the Marker, and corn: Whence they were called by them *Ædiles Cereales*, and *i* by the Greeks ἀγορανόμοι This office, for ought that can be collected out of those that treat of it, differeth but little from his, whom the Romans called *Annonæ præfectum*; only this, the *Ædiles Cereales* were *Magistratus ordinarii*; the *Prefectus, extraordinarius*; namely, *k* such as was chosen only in time of extraordinary dearths: he having for that time larger authority then those ordinary Clerks of the Market. For as it appeareth by *Rosinus* in the place now quoted, this *Prefectus* had power of himself to examine all such cases or questions as should arise touching the dearth: as suppose the hoarding of corn, fore-stalling the Market, *&c.*

h Alex. Gen. ibid.

i Pighius in suo Tyran.

k Rosin. ant. lib. 7. c. 38.

CAP. 18.
De Triumviris.

BEside that *Triumviratus Reip. constituendæ*, of which we spake before, there were divers kinds of *Triumviratus*, namely, *Triumviri capitales*, three high Sheriffs, who had the charge of Prisons, and were to see malefactors punished. For which purpose eight *Lictors* did attend them. There was also *l Triumviri Minarii*, three men, we may term them Bankers, who had authority to pay out of the common Treasury poor mens debts. Sometimes there were appointed five to this office, whence they were also called *m Quinq; viri Mensarii*, both being called *Mensarii* from *Mensa*, a Table whereon they told their money. Another sort of *Triumviri* there were appointed to press Souldiers, whence they were

l Alex. Gen. dier. l. 3. c. 16.

m. Camer. in orar. Cic. pro Flacco.

were called *Triumviri conquirendi juvenes idoneos ad arma ferenda.* We read also of certain *Triumviri*, which were elected as chief Captains to guide and conduct the people in transplanting Colonies, and thence were they named *Triumviri coloniæ deducendæ*; but sometimes for this purpose they elected seven, ten, or twenty, and so named them *Quinq; viri, Septem viri, Decem viri*, & *Viginti viri Coloniæ deducendæ.* Three other sorts of *Triumviri* remain, which were officers of small account, as the *Triumviri monetales*, three Masters of the Mint, who thence were called *Triumviri A. A. Æ. F. F.* that is, *Auro, Argento, Ære, Flando, Feriundo*, for they had the charge of coining the money. 2. *Triumviri valetudinis*, three Pest-men, which were to oversee those that lay infected with any contagious sickness. Thirdly, [n] *Triumviri nocturni*, three Bell-men, which were to walk the Town at night, and to give notice of fire.

[n] *Alex. Gen. dier. l. 3. c. 1.*

CAP. 19.
De Præfectis Ærarii.

Augustus Cæsar desiring for the better safety of the City to maintain many bands of Souldiers, which should always be in readiness for the defence of the City, desired of the City a yearly subsidy for the maintenance of those Sculdiers: but being denyed it, he built a certain Treasure-house which he called *Ærarium militare*, whereinto he cast his money for himself and *Tiberius*; and promised to do so every year. Afterward when he saw the Treasury not to be inriched enough, either by that money which himself bestowed, or by the contributions of others, he appointed that the twentieth part of all inheritances and legacies (except it were to the next of the kin, or to the poor) should fall unto this Treasury. For the charge and custody hereof he appointed three of those Souldiers which alwayes attended about him for the safeguard of his person, calling them *Prefectos Ærarii.*

CAP.

CAP. 20.
De Præfecto Pretorio.

ALL Captains and Governours to whom the Rule of any Army belonged, were in ancient time called *o Pretores:* This word *Pretor* signifying then three chief Officers among the Romans; first a Consul, secondly a L. chief Justice, thirdly a L. General in war; all of them being called *p Pretores, quasi Preitores, quoniam jure & exercitu preibant.* Answerable to which threefold acception, this word *Pretorium* hath three several significations; sometimes it signifieth a Princes palace or Manor-house, sometimes a great hall or place where judgement was wont to be given, and lastly, the L. General his pavilion in the Camp; *q* from which last signification it is, that those Souldiers that gave attendance about that pavilion for the guard of their Captains person, are sometimes called *Milites Pretoriani,* sometimes *Cohors Pretoria.* *r* And he to whom the oversight of the Souldiers was committed, was thence called *Pretorio prefectus.*

o Pancir. in notitiam imper. orient. c. 5

p Pighius in Æquiper. compos.

q Asconius in Verrin.

r Fr. Sylv. in Catil. 2.

CAP. 21.
De Advocato fisci.

FOr the right understanding of this office, we must first note a difference between these two words, *Ærarium* and *Fiscus*: *Ærarium* was a common Treasury belonging unto an whole State or Corporation, whence all publick and common expences are to be supplied. *Fiscus* was the Kings or Emperours private coffers: it may be Englished the *Kings Exchequer:* The keeper thereof was called *Advocatus Fisci.* There are many other petty offices within the City, which I have purposely omitted, because there is but seldom mention of them in old Authors, and as often as they are mentioned, their names do explain their office.

CAP.

CAP. 22.

De præcipuis Magiſtratibus provincialibus.

OVer the Provinces at firſt ruled certain Magiſtrates ſent from *Rome*, by Commiſſion from the Roman Senate, called *Prætores*, whoſe office was to adminiſter Juſtice unto the Provincial inhabitants, yea, and if occaſion ſerved, to make war alſo upon their enemy; and this was the reaſon th the number of the Prætors did ſo increaſe always, namely, according as the number of Provinces did encreaſe. The wars and tumults in the Provinces ſometimes were ſo great, that the Prætor was not ſufficient both to manage war and execute juſtice: whereupon the Senate thought fit to ſend another Magiſtrate into the Provinces, whom they called a Conſul, becauſe properly the managing of war belonged unto the Conſul, ſo that there were at firſt two ordinary Provincial Magiſtrates, a Conſul to manage war, and a Prætor or Lord Chief Juſtice to ſit in Judgement. And if theſe two by a ſecond grant from the Senate, did continue in their office above the ſpace of a year, then were they called *Proconſules & Proprætores*. But in proceſs of time this cuſtom was altered; for then none could be Proconſuls, but thoſe alone who had been Conſuls in *Rome*: neither could any be Proprætors, which had not been Prætors at *Rome*. Their manner being, that the next year after the expiration of their offices in *Rome*, they ſhould depart into ſome certain Province, to bear the ſame offices again, being not called *Conſules* or *Prætores* as before, but ſ *Proconſules* and *Proprætores*: and for this cauſe alwayes ſo ſoon as the Conſuls had been created, the Senate did appoint certain Provinces for the Conſuls, which being appointed, the Conſuls did either agree between themſelves, who ſhould go to the one, who to the other, and that was termed *comparare provincias*; or elſe they did decide the queſtion by lots, and that was termed *ſortiri provincias*:

ſ Alex. Gen. dier. l. 3. c. 3.

cias: howbeit, ſometimes the Senate did interpoſe their authority, and diſpoſe the ſame. Under the Emperours the Governours of ſome Provinces were appointed by the Senate and the people, and thoſe were called *Proconſules*, and the Provinces, *t Provinciæ Conſulares*: others were appointed by the Emperours, and they were called *Proprætores*, and the Provinces *Prætoriæ Provinciæ*. For all this which hath been noted touching the Provincial Magiſtrates, it is almoſt *verbatim* tranſlated out of *u Roſinus*. To which we add this, namely, that every Proconſul and Proprætor did uſually chooſe a Lieutenant, ſuch a one as ſhould be aſſiſtant unto him in matters of Government, whom they called *Legatum*, ſo that this word *x Legatus* ſignifieth three ſeveral Magiſtrates among the Romans: two whereof may be proved out of *y Sigonius*: firſt, that it ſignified ſuch a Lieutenant, or Lord Deputy under a Proconſul, or Proprætor in a Province. 2. That it ſignified ſuch a one as is imployed in the delivery of a Meſſage or Embaſſage from one Prince or State to another: we commonly call them Embaſſadours. Laſtly, it ſignified a Lieutenant or chief Captain in war, whoſe place was next under the Lord General. His Office at the firſt inſtitution, was not ſo much to rule or command, as to aſſiſt the Lord General in counſel; whence *Polybius* commonly joyneth theſe two together πρεσβυτὰς καὶ συμβούλους, that is, *Legatos & conſiliarios*, that the latter word might expound the former. *Lipſ. de mil. Rom. l. 2. dial. 11.* Moreover, every Proconſul and Proprætor had with them certain Treaſurers called *Quæſtores Provinciales*: Theſe Provincial Treaſurers *a* were choſen by the Roman people commonly, namely, ſuch a number as the number of Provinces did require. After the election, they between themſelves did caſt lots who ſhould go unto the one, who unto the other Provinces: *b* ſometimes extraordinarily by vertue of ſpecial act or Decree, as this or that ſpecial man hath obtained this or that Province without any lottery. By the way we muſt note,

t Camer. pro L. Flacco.

u Roſin. ant. l. 10. c. 24.

x Pomp. Læt. de Mag. Rom.

y Sig. de jur. prov. l. 2. c. 2.

a Sig. de jur. prov. l. 2. c. 3.

b Sig. ibid.

note, that all Provincial Quæstors could not be called Proquestors, as all Provincial Consuls and Prætors were called *Proconsules* and *Propretores*: c For these only were called *Proquæstores*, which did succeed these Provincial *Quæstors*, when they did either die in their office, or depart out of the Province, no successour being expected from *Rome*, at which time it was lawful for the Proconsul or Propretor to choose his Proquæstor. Moreover, there were beside these *Legati & quæstores*, d other Military Officers, such as are the *Tribuni militum*, *Centuriones*, *Præfecti*, *Decuriones*, together with other inferiour Officers, as their Secretaries, Bailiffs, Criers, Serjeants, and such like.

c Rosin. ant. Rom. l. 7. c. 45

d Sig. de. Jur. prov. l. 2 c. 2.

LIB. III. SECT. III.

Of the Roman *Puniſhments.*

CAP. I.

Supplicia, Mulcta, Lex, Ateria, Tarpeia, Ego ei unum ovem mulctam dico, &c.

Touching the Military Puniſhments, which belonged to the Military Diſcipline; it ſhall be treated of in its proper place. Here only of the City Diſcipline, and the uſual Puniſhments exerciſed therein, which we may divide thus. Puniſhments publickly inflicted on malefactors, are either *pecuniary mulcts*, or *corporal puniſhments*: The *Pecuniary mulcts* were of two ſorts; either an appointed ſum of money was required of the party guilty, and then it was called *Mulcta*; or his whole eſtate was ſeiſed on, and then it was termed a *Confiſcation* of his goods. The *Mulct* was twofold, the one termed *Mulcta ſuprema*, the other *Mulcta minima*. Of both theſe *a Gellius* writeth thus, *Suprema mulcta erat duarum ovium, & treginta bovum, pro copia ſcilicet boum, & penuria ovium; ſed cum ejuſmodi mulcta pecoris armentique à magiſtratibus dicta erat, adigebantur boves, oveſque, alias pretii parvi, alias majoris, eaq; res faciebat inæqualem mulctæ punitionem:*

a Gell. l. 11.

punitionem: idcirco postea lege Ateria constituti sunt in oves singulis æris deni, in boves æris centeni: Minima vero mulcta fuit ovis unius. Moreover as he observeth in the same place, whensoever the Magistrate did set a fine or mulct upon the offenders head, he used the word *Ovis* in the Masculine gender, as *Ego ei unum ovem mulctam dico, &c.* The Law which *Gellius* calleth *Ateriam legem*, *b Festus* calleth *legem Tarpeiam*, because *Aterius* enacted it when he was Collegue or fellow-Consul with *Tarpeius*. Likewise we may take notice of the elemency used in those times. It was provided by the law, that seeing there was a greater plenty of Oxen then of Sheep, and to be fined an Ox, was not so much as to be fined a Sheep, therefore the Magistrate pronouncing the fine, *c Bovem prius quam Ovem nominaret, ut innotesceret Romanis mitiores semper pœnas placuisse.*

b Festus in voce peculat.

c P. in lib. 18. c. 3. It. Alex ab Alex. l. 3. c. 5.

CAP. 2.

Capitis diminutio, maxima, media, minima, Aqua & Igni, interdici, Proscriptio, Lata fuga, Deportatio, προγράφειν, σηλιτεύειν. Ærarii, In ærarios relati, Religatio, Lanii cum tintinnabulis.

THe corporal punishments are either such as were *Capital*, depriving a man of his life: or *Castigatory*, such corrections as served for the humbling and reforming of the offender, or for the destroying of him. *Capital* punishments were sometimes taken in a Civil acception, for the loss of freedom, which the *Romans* called *capitis diminutionem*, Disfranchising, because in every Freeman thus disfranchised, one head of the Corporation was as it were cut off: sometimes it is taken for the loss of ones life, and this they called *Ultimum supplicium*. That disfranchising called *capitis diminutio*, was *d* threefold. *Maxima, Media, & Minima.* The least degree was, when the *Censors* pulled a man from an higher Tribe, down to a lower and less honourable,

d Rosin. ant. l. 9. c. 3.

honourable, or when by any cenſure they diſabled a man from ſuffraging, or giving his voice in the publick Aſſemblies: ſuch as were thus in the laſt manner puniſhed, were termed *Ærarii*, and *In ærarios relati*, e *quia omnia alia jura civium Romanorum præterquam tributi & æris conferendi amiſerunt.* This kind of puniſhment, as it may ſeem, was many times exerciſed for irreverend geſture, or ſpeeches uſed by ſuch as were queſtioned by the Cenſors. Three ſeveral examples are noted by *f Gellius*; the laſt is this, *P. Scipio Naſcica* and *M. Pompilius* being Cenſors, taking a view of the Roman Knights, obſerved one of them to have a lean ſtarveling horſe, himſelf being fat, and in good plight; whereupon they demanded the reaſon why his horſe was ſo lean, himſelf being ſo fat: his anſwer was, *Quoniam ego, inquit, me curo; equum Statius meus ſervus. Diminutio media*, was an exileſment out of the City, without the loſs of ones freedom: *g* It was commonly ſet down in this form of words, *Tibi aquæ & igni interdico.* And it ſeemeth by *h Cœlius Rhodiginus*, to be all one with that kind of baniſhment which the Romans called *proſcriptio*, though it cannot be denied but that *Proſcriptus* ſometimes ſignifieth only ſuch a one whoſe goods are ſet at ſale to ſatisfie his creditors, becauſe he will not appear in the Court; the form thereof is thus; The Creditors having obtained leave of the Lord Chief Juſtice to proceed in this manner, they committed the ordering of the ſale to one principal Creditor, and he was called ſimply *Magiſter*, and he in the name of all the reſt ſolemnly proclaimed in the chief places of the City in form as followeth, *i Ille debitor noſter in ejuſmodi cauſa eſt, ut bona ejus divendi debeant; nos creditores patrimonium ejus diſtrahimus; quicunque emere volet, adeſto.* But for the reconciling of both opinions, we may term the firſt to be *Proſcriptionem hominum*, the other *Proſcriptionem bonorum*, which diſtinction being not obſerved, breedeth a great confuſion in the Authors that treat of this puniſhment: and becauſe both were performed by ſolemn and publick

e Sig. de Jur. Rom. l. 1. c. 17

f A. Gell. noct. Attic. l. 4. c. 7.

g Camerar. in orat. Cic. pro Mur.

h Cœl. Rhod. l. 15. c. 17.

i Roſin. ant. l. 9. c. 12.

publick Proclamations; hence the name *Proſcriptio* agreed as well to the goods confiſcated, as to the perſons baniſhed; according to that, *k Quoniam eorum nomina in publico ſcribebantur, hinc proſcribi dicebantur.* Hence the *l Grecians* uſed not only the word προγράφειν but alſo στηλεύειν, to ſignifie the act of *proſcription*, becauſe they wrote in a publick pillar the faults and offences of ſuch as were thus baniſhed. But to proceed without farther digreſſion, *Diminutio maxima* was the loſs both of the City, and the freedom; and this I take to be the ſame which in other terms was called *Lata fuga*, or *deportatio*, namely a perpetual exilement: All ſtanding in oppoſition to that other kind of baniſhment, called *Relegatio*, which was the exilement * onely for a ſeaſon, happily for five years, *&c.* ſee *C. Rhod. lib.* 10. *cap.* 5. Though I deny not but that *lata fuga* was ſo called, not only in reſpect of the duration of time, it being a perpetual baniſhment, but alſo in regard of the places ſo generally prohibited; *m* for he that was thus baniſhed, was tyed and limited to one peculiar countrey, all other places in general being forbidden him. Thoſe puniſhments that deprived of life in ordinary uſe, and of which there is moſt frequent mention in *Roman* Authors, are theſe which follow: *Furca, Crux, Carcer, Culeus, Equuleus, de rupe Tarpeia dejectio, Scala, Gemoniæ, Tunica, Damnatio, in gladium, in ludum, ad beſtias.* In general we are to note, that the execution was without the gates of the City, to prevent the noyſomneſs which ſuch abundance of bloud might occaſion, *n* for which reaſon the Executioner dwelt without the City. Likewiſe thoſe that were adjudged to death, when they went to the place of Execution, a certain little Bell was tied about them, that by the ſound thereof, the people might beware of touching the condemned perſon, becauſe the very touch of him was counted a kind of pollution: this *o Turnebus* obſerveth out of *Zonaras*, and from thence the Executioners are called *p Lanii cum tintinnabulis.* And for this reaſon

k F. Matur. in Phil p. orat. 5
l Suidas. in voce στήλη.

* Adde quod edictum quamvis immite minaxq; Attamen in pœnæ nomine lene fuit; Quippe relegatus, non exul dicor in illo. *Ovid.* de Triſt. l. 2. Eleg. 1.

m Tholoſan. ſyntag. Jur. univ. l. 31.

n Plaut. Caſ. 2. 6.

o Turn. adv. l. 11. c. 21.

p Plaut. Pœn. l. 3.

reason *q* it was, that a little bell and ſcourge was hanged up in the hindmoſt part of the Chariot, wherein the Lord General did ride in his triumph, a publick Officer which rid with him in the ſame Chariot, now and then plucking him behind, and bidding him look back, uſing this form of words, *r Reſpice poſt te, hominem memento te*, that is, *Sir look behind you, remember your ſelf to be but a man.* For the ſight of the ſcourge and bell ſerved to put him in mind, that notwithſtanding his preſent Triumph and Acclamations, his after-miſeries might be ſuch, that he might be puniſhed not only with whips, but even with death it ſelf.

q Roſin. ant. l. 10. c. 29.

r Tertul. Apolog. c. 33.

CAP. 3.

Furca, Furcifer, Supplicium more Majorum, &c.

ANcient Authors which do write of the Roman *Furca*, do rather mention it, then explain it: but if we diligently obſerve what they ſpeak of it, we ſhall find the uſe thereof to have been threefold. The firſt ignominious, which *a* was when the Maſter forced the ſervant for ſmall offences *furcam circa urbem ferre*, to carry his *furca* upon his ſhoulders about the City, confeſſing his fault, and admoniſhing others to beware of the like offence, and *b* hence ſuch a ſervant was afterward called *furcifer*; and here I think was uſe of thoſe *ſtimuli* or goads, whereof I ſhall ſpeak more in the Chapter following; namely, that when the party thus to be puniſhed dragged back, and ſhewed himſelf unwilling, then did the Executioner prick him forward with theſe kind of goads. The ſecond ſort was penal, when the party having the *furca* on his neck, was led up and down the Cirque, or ſome publick place, and on the way to be whipt, but not unto death: *c* thus *C. Matienus damnatus ſub furca diu virgis caſus erat, & ſeſtertio nummo veniit.* He

a Iſidor. orig. l. 10.

b Plut. in Coril.

c Epit. Liv. dec. 5. l. 6.

was

was afterward sold, and thereof died not under the punishent. The third sort was penal too, but in a higher degree; namely, when the malefactor having his head fastened to the *furca*, was whipt under it unto death; and this was by a peculiar name called *d Supplicium more majorum*. This yet differed from that beheading with an Ax, which was in use among the Romans, and called by the Grecians πελεκισμὸς from πελεκὺς, signifying an ax or hatchet; it differed I say from this, because howsoever there was in this σταυρῷ πρόσδεσις a tying the party to a stake or post, and also μαστίγωσις, a whipping, in both which it agreed with the former punishment; yet herein they differed, because in the former they were whipped to death, in the latter they were after their whipping beheaded with an ax, as appeareth by the *e* execution of *Antigonus* the King of the Jews. But to proceed in the description of the *furca*, the form thereof I take to be like the beam of a Wain, unto which the yokes are fastned; it resembleth a fork, and the *furca* is called ξύλον διπλοῦν, δικροῦν, δίδυμον, i. e. *lignum duplex*, *bicornutum*, *geminum*, in English a forked peice of timber; there is no such piece throughout the whole Wain, as the form of Wains is in these dayes, but only the beam thereof. *f Plutarch* treating of the *furca*, saith that it is ξύλον ἀμάξης ᾧ τὸ ῥυμὸν ὑπερείδουσι, that is, a peice of timber about the Waggon or Wain, wherewith they upheld the beam; and he addeth, that what the Grecians call ὑποστάτιν and στήριγμα, the Romans call *furca*: now *Hesychius* describeth στήριγμα to be τὸ δικροῦν ὅπερ ὑποπθέασι τῷ τῆς ἀμάξης ζυγῷ, that is, the forked peice of timber, which they put under the yoke of the Wain; correct *Plutarch* by *Hesychius*, and for τὸ ῥυμὸν read τὸ ζυγὸν, and you have in both the description of the beam in the Wain. Some think that *Plutarch* compareth the *furca* to certain forked pieces of timber, wherewith the Wain was upheld whiles it was unloaded; but how this can stand with *Hesychius* his description of στήριγμα, I am yet to learn; notwithstand-

d Sueton. in Ner. 49.

e Dion. l. 49.

f Plut. in Coriol.

ing if we admit this interpretation, that which I would hence infer is rather confirmed, than any way weakned; namely, that the form of the old Roman *furca* was forked; neither do there appear any testimonies so evident to me, as to perswade that among the antient Romans any other was in use. True it is that in after-ages the form thereof was the very same with our *Gallowses*, which are now in use, and this haply began, when the use of crucifying was interdicted, which inderdiction we read first to have taken place in *g Constantines* time.

g Sozom. Eccles. hist. l. 1. c. 8.

CAP. 4.
Crux Servile supplicium, Titulus.

CRucifixion hath been a punishment in antient use among the Romans; it was abrogated by *Constantine*. It was a death that commonly servants were sentenced unto, seldom times freemen, whence it is many times noted out by the name of *servile supplicium* by *Tacitus*: yet *b* sometimes freemen, though of the baser sort, and for notorious offences, were adjudged to this kind of death: nay a clear example hereof we have in that * Guardian which *Galba* crucified for poysoning his Ward, for the Guardian calling for the benefit of the Law, and avouching in his plea, *That he was a Roman Citizen*, *Galba* as if he would allay his punishment with some comfort and honour, commanded the Cross already made to be changed, and another to be reared far higher than the ordinary, and the same laid over with a white colour. Those which were thus to be punished, they bore their Cross upon their shoulders to the place of execution. *i Malefici cum ad supplicium educuntur, quisq; suam effert crucem.* *k Artemidorus* is as plain, ἔοικε γὰρ ὁ σταυρὸς θανάτῳ, καὶ ὁ μέλλων σταυροῦσθαι σταυρὸν αὐτὸν βαστάζει, that is, the Cross is like unto death, and he which was to be crucified did first bear it: The party that suffered this kind of death, was first stripped of all his cloaths, for he suffered *l* naked; then

b Vid. Lipsi. de cruc. c. 11. l. 1.

*Suet. Galb. 9.

i Plut. de sera. numinis vind.

k Vid. Lipsi. de cruc. l. 2. c. 5.

Artemid. l. 2. c. 58.

then was he fastned unto the Cross, and that commonly with nailes, the Greek word προσήλωσις clearly evinceth as much; we may render it *Clavi fixio*. Now that the equity of the proceeding might clearly appear to the people, the cause of his punishment was written in Capital letters, hence *m Dio* speaketh of a servant dragged to the Cross, μετὰ γραμμάτων τὴν αἰτίαν τῆς θανατώσεως δηλούτων, that is, with letters declaring the cause of his death. This inscription was called αἰτία *Mat.* 27.37. It was also called τίτλος, *Joh.* 19.19. from the Latine word *titulus* used in the same sense. And sometimes ἐπιγραφὴ τῆς αἰτίας, *Mar.* 15.26. or simply ἐπιγραφὴ, *Luke* 23.18. *n Tertullian* and *o Suetonius* calleth it *elogium*. The like kind of publishing the cause either by an Inscription, or by the voice of a common Crier, was not unusual in other capital punishments, as *Attalus* the Martyr was led about the Amphitheatre, πίνακος αὐτὸν προάγοντος, ἐν ᾧ ἐγέγραπτο ῥωμαϊστὶ οὗτος ἐστὶν Ατταλὸς ὁ χριστιανὸς. *p* A table being carried before, in which was written in Latine, *This is Attalus the Christian*. That of *q Suetonius* is not much unlike, *Patrem familias detractum e spectaculis in arenam canibus objecit, cum hoc titulo, Impiè locutus Parmularius*. What is meant in this place by *Paterfamilias* and *Parmularius*, hath been already declared in the Chapter of *Fencers*. Moreover, such as were to be crucified were also whipt before they suffered. That same *horrendum carmen* clearly evinceth as much: the parts whereof are two: First, *r Verbera intra aut extra pomerium*. Secondly, *Arbore infelici suspendito*. This whiping was sometimes *sub furca*; so this, * *Valerius* is plain, *Cum servum suum verberibus mulctatum sub furca ad supplicium egisset*: sometimes *ad columnam*. *Artemidorus* is clear in this, προσδεθεὶς κίονι πολλὰς ἔλαβε πληγὰς, that is, being tied to the Pillar he received many stripes. Haply *s Plautus* alludeth to the same:

——— *abducite hunc*
Intro atq; adstringite ad columnam fortiter.

Yea, the antient Fathers say that our blessed Saviour

m Vid, Lips de cruc. l. 2. c. 11.
n Apol. c. 11.
o Suet. in Cal.
p Euseb. eccl. hist. l. 5. c. 1.
q Suet. Domit. c. 10.
r Liv. l. 1.
* Val. Max. l. 1. c. 7.
s Plaut. Bac.
t Prudentius Hieronym. Beda. v. Lips. de cruc. l. 2. c. 4.

was thus whipt : Touching the place or manner the Scripture is silent, only that he was whipt it testifieth, and that with scourges, τὸν δὲ Ἰησοῦν φραγελλώσας παρέδωκεν ἵνα σταυρωθῇ, *Mat.* 27. 26. This fore-whipping I take to be a matter unquestionable, but that they should be whipt on the way towards the place of execution; I much doubt, much more that they should be goaded on the way with pricks and goads by the executioner. That there was *u Stimuleum supplicium*, a kind of punishment with pricks and goads, is evident, and hence cometh that phrase *Stimulo fodere*, and hence that phrase of *Kicking against the pricks*. Parallel to which is that of *Plaut. Truc.* 4. 2. *Stimulos pugnis cædere*. But this kind of punishment I take to have been exercised only by Masters towards evil servants, and that not as preparory to death, but for their reformation in future times : whence by way of contempt, a servant thus handled, was termed *x Carnificinum cribrum*, because he had his back so goared with those pricking instruments that it looked like a sieve full of holes. Otherwise if we understand it as a punishment imposed by publick Authority, we may say, that thereby is denoted a certain punishment exercised towards thieves in time of their examination, that by the pricking and goading of them, the truth might be confessed ; * for to that end thieves were thus tortured, and thence were they called *Centrones*, from κέντρων *Stimulus*. Lastly, we must remember that these three words, *Furca*, *Crux*, and *Patibulum*, are many times used promiscuously, signifying the whole Cross on which malefactors suffered : but in strict propriety of speech, *Furca* signifieth that forked instrument of which we treated in the former Chapter; *Crux*, that erect part of the Cross standing upright : and *Patibulum*, the thwart peice of timber upon the top of the Cross : yet sometimes also *Patibulum* is taken for the Roman *furca*, whence *Patibulatus* and *Furcifer* are used as words equivalent, and in both sences it may borrow its name from *Pateo* to lie open ; because

u Plaut. mil. 2. 6.

x Plaut. Most. 1. l. 1.

* Cœl. Rhod. lect. antiq. l. 10. c. 5.

as

as the malefactors hands were ſpread abroad being faſtned to the thwart peice of timber upon the top of the Croſs: ſo were they likewiſe ſpread abroad under the *Furca*, his two hands being tied to the two forked ends thereof.

CAP. 5.

Carcer, Ergaſtulum, Tullianum, Robur, Mala manſio, Nervus, Columbar, Numella, Codex.

HOwſoever *Carcer* and *Ergaſtulum* are uſed promiſcuouſly by Modern Writers, yet if we diligently enquire into each words origination, and how they have been uſed by more antient Authors, we ſhall find them thus differenced. *Ergaſtulum* was a Priſon much reſembling our houſe of *Correction*, into which ſervants only were caſt: *Carcer* a more publick Priſon, unto which men of better rank and faſhion upon juſt occaſion were committed. Secondly, the power of ſentencing any ſervant to the *Ergaſtulum*, was proper and peculiar to the Maſter of the Servant, without approbation from publick Authority; but the power of committing to the Priſon called *Carcer*, was only in the publick Magiſtrate. Thirdly, *Ergaſtulum* took away only the liberty and pleaſure of life: *Carcer* life it ſelf. The word *Carcer* hath his name *à coercendo*, from reſtraining men of their liberty. *a* It had two principal parts, the one called *Tullianum*, the other *Robur*, beſides many other rooms wherein men were kept cloſe Priſoners: Thoſe two places were aſſigned for execution. In that which they called the *Tullianum* (we may engliſh it *Dungeon*) they ſtrangled malefactors. *b* It had its name from *Servius Tullius* a *Roman* King, the firſt inventor and Author thereof. Of this *Saluſt* writeth, *Eſt locus in carcere quod Tullianum appellatur, ubi paulatim aſcenderis ad lævam circiter duodecim pedes humi depreſſus, eum muniunt undiq; parietes, atq; inſuper camera lapideis fornicibus juncta, ſed in culta tenebris, odore fœda, atq; terribilis ejus facies eſt.* {In that other place which they called commonly

a Sig. de jud. l. 3. c. 17.

b Sig. ibid.

commonly *Robur*, ſometimes *b Robuſtus Codex*, ſometimes *d Cuſtodia lignea*, ſometimes *e Italum Robur*, (our Engliſh phraſe *ſtrong hold* fitly anſwereth it) they broke malefactors necks by a kind of precipitation or tumbling them headlong *f* from a certain ſtock of a Tree faſtned there in the earth; unto this *Tully* alludeth, *Quæro fregeris ne in carcere cervices illi ipſi Vectio*: But more expreſly *Plautus*, *g At ego faciam vos ambos in robuſto carcere ut pereatis.* Thoſe that had the chief overſight in ſuch executions, were called *Triumviri capitales*, that is, *High Sheriffs*. The whole proceeding is ſet down by *Valerius*, *h Mulierem damnatam Prætor Triumviro necandam in carcere tradidit, quam receptam is qui cuſtodiæ præerat, miſericordia motus non protinus ſtrangulavit; aditum etiam filiæ dedit, ſed diligenter excuſſæ, ne quid ſibi inferret, exiſtimans futurum, ut inedia conſumeretur; cum vero animadverſiſſet filiam matrem lactis ſui præſidio ſuſtentantem, rem ad Triumvirum, Triumvir ad Prætorem, Prætor ad conſilium judicum pertulit, & remiſſionem mulieri impetravit.* It is much controverted among interpreters what that kind of puniſhment was which they termed *Malam manſionem*, we may Engliſh it *Little-eaſe*. Some underſtand hereby a certain deepe dungeon, made in the form of a pit or well, called therefore in Latine *Putens*, but this as it ſeemeth by that of *Plautus*, was a puniſhment proper and peculiar to theeviſh Cooks: *i Coqui abſtulerunt, comprehendite, vincite, verberate, in puteum condite.* Others underſtand hereby a cloſe Priſon, which becauſe of its ſtraitneſs and cloſeneſs they called *arcam*, a cheſt: the uſe of this Priſon was for the ſafe keeping of ſuch who were afterward to be examined of farther matters; though ſometimes other offenders were caſt into the ſame. Of theſe Priſons *Tully* ſpeaketh, *k Subito abrepti in quæſtionem, tamen ſeparantur à cæteris, & in arcas conjiciuntur, ne quis cum his colloqui poſſit.* Another kind of Priſon there was, called *Sextritium*, thus it is commonly rendred in Latine, but the Greek word is σεξτήριον and accordingly *l Turnebus* renders it *Seſtertium*, being

c Plaut. Pœn. 5.3.
d Plaut. Pœn. 5.6.
e Hor. lib. 2. Od. 13.
f Turn. adv. l. 23. c. 21.
g Plaut. in cur. c ſact. 5. ſe. 5.
h Val. l. 5. c. 4.
i Plaut. Aulul. 2.5.
k Cic. pro Milone.
l Turn. adv. 3. c. 18.

being of opinion that it was ſo called from the quantity of ground it contained, namely two acres and an half. *C. Rhodiginus* thinketh that *Spoliarium* and *Sextritium* were not places unlike; but herein not he alone, but divers others have been deceived; for *Sextritium* is apparently a place of *b* execution, where thoſe were executed whom the *Roman* Emperours adjudged to death: now whether that *Spoliarium* were a place of puniſhment, I much doubt. What in Latine we call *Spoliarium*, that the Greeks termed σποδυτήριον both do ſignifie primarily little Cells or Chambers neer adjoyning to the Bath, where ſuch as waſhed themſelves laid up their cloaths: In a borrowed ſenſe both are uſed to ſignifie Chambers and Cells adjoyning near unto the Amphitheatre or fencing place, wherein the Fencers did put up their cloaths in time of fight, and becauſe ſuch as were wounded in fight were carried into thoſe Chambers, where they languiſhing with much pain, at laſt notwithſtanding expired for the moſt part, and that not without much torturing of the Chyrurgion, hence ſuch a *Spittle-houſe* is alſo called *Spoliarium*. Thus much *Seneca* ſeemeth to intimate, *c Nunquid aliquem tam cupidum vitæ putas, ut jugulari in ſpoliario, quam in arena malit?* Whereby it appeareth that *Spoliarium* was not a priſon, unto which malefactors were judged, but rather as I ſaid, a kind of *Spittle-houſe*. Other kind of puniſhments there were of a near likeneſs with Impriſonments, as caſting into the Pillory, laying one by the heels, *&c.* Of theſe little is ſpoken more then the very names; of this ſort thoſe that do moſt commonly occur in authors, are theſe; *Nervus, Columbar, Numella, Codex. Nervus* is generally thought to reſemble our *Stocks*. *d* Some take it to be made of wood, others of Iron, *e Nervum appellamus ferreum vinculum, quo pedes impediuntur: quanquam Plautus eo etiam vinciri cervices ait.* Two of the laſt ſeem to have ſome reſemblance with our Pillory: *Collumbar* had its name from *Collum*; becauſe the neck was chiefly pained in

b Plut. in Galba.

c Scen. ep. 94. De ſpoliario. Vid. Lipſ. Sat. 1. 18.

d Vid. Taubman. in Plaut. Aulul. 4. 10.

e Feſt. Vid. Lam. in Plau. Aulul. 4. 10 i.

in this kind of punishment. *Numella* was also a kind of *Pillory*, being so called, *quasi n Nuella, quod qui eo vinculi constricti erant, nuere demissoq; capite esse cogebantur.* *Codex* was a certain block or *Clog*, so tyed unto the Malefactors, that they used it as a stool to sit on: the use of this may seem to have been only in private houses, thereby to keep evil servants the closer to their work: Of this *Juvenal* speaketh, *Sat.* 2.

n Turn. adv. l. 23. c. 21.

Horrida quale facit residens in codice pellex.

o Turnebus describeth it thus, *Codex est ligneus stipes, quem allegati servi qui deliquerant trahebant, cuiq; insidebant vincti.*

o Turn. ibid.

CAP. 6.
CULEUS.

THe Crime which in Latine we call *Parricidium*, is murther practised by Father or Mother towards the children, or by the Children towards either of their Parents. It had in old times a larger acception, signifying any murther between man and man, and then it was called *Parricidium, quia par parem occiderat.* The word taken in his first and proper signification, denoted a fact so unnatural, that neither *p Solon* nor *Romulus* would determine any punishment against such offenders, because they thought none so wicked as to commit it, and the prohibition it self might prove a kind of irritation to provoke some to the commission of the crime, which otherwise would never have entred into their hearts: but the wickedness of the aftertimes, enforced Law-givers to invent a sharp punishment against such unnatural offences. The Punishment decreed against Parricides in *q Seneca's* Age, was, that such malefactors should be sowed up in a leathern sack, together with Serpents, and so cast into the Sea: afterward there was sowed up in the same sack an Ape, and a Cock, and at last a Dog. Whence *Juvenal Satyr.* 8.

p Cic. pro Sext. Rosc.

h Sen. l. 5. controv. 4. fin fine.

Cujus

Cujus ſupplicio non debuit una parari
Simia, nec ſerpens unus, nec culeus unus.

a Modeſtus deſcribeth the manner thereof thus: The Parricide being firſt whipt with rods until the blood came, then was he ſewed up in this ſack called *Culeus*, together with a Dog, a Cock, a Serpent, and an Ape. *b* They would not caſt him naked into the ſea, leſt the water thereof thereby might be polluted, wherewith all other pollutions in their opinion were expiated.

a Digeſt. lib. 48. ad legem Pomp. de parric. vid. Cœl. Rhod. l. 11. c. 21

b Cic. pro Sext. Roſc.

CAP. 7.

Eculeus, Lamina, Ungulæ, Fidiculæ, ξυσμὸς.

Culeus had its derivation from *Equus*, *quaſi Equuleus*, as may be collected from that deſcription which *c Turnebus* giveth: But not ſo much from the poſiture or ſituation of the offendors body on the Engine, as *Turnebus* would have it, for he in no wiſe reſembled a man on horſeback, but rather from the horſing and hoiſing up of the party faſtned with ropes unto the *Equuleus*, ſo that his hands being tied faſt at the upper part of the Engine, and his feet at the nether part, he was hoiſed up in the Air like unto one faſted on a Croſs. The form of the *Equuleus*, I conceive thus, It was not one entire ſtake, but rather two long peices of timber joyned together in form of a ſtake, joyned together, I ſay, by the meanes of a vice or ſcrue: and the reaſon hereof was, that by help of this ſcrue, the upper part of the Engine might be lifted up to the racking and torturing of the malefactor, or let down to the eaſing and remitting of his pains, as ſhould ſeem good to the executioner, or other Officers, who now and then would grant ſome remiſſion and reſpite in hope of a confeſſion. For in the firſt inſtitution, the main end of this torture was to work out the knowledge of the truth. Neither did they alone rack the parties joynts in this kind of puniſhment, but to enforce him unto a confeſſion by an augmentation of his pain,

c Turn. adv. l. 4. c. 3.

they did often with hot plates and iron pinsers, burn and tear his flesh from his sides; and all this we shall find warranted by *d Sigonius*, whose words I have written down at large: *Eculeus casta fuit lignea, chocleata, ad intendendum ac remittendum apta, atq; ad torquendos homines, ut facti veritas eliceretur, instituta. Tormenti vero genus erat hujusmodi, ubi catastæ huic brachia pedesq; ejus, qui torquendus erat, nervis quibusdam, quæ fidiculæ dicebantur, alligaverant, tum catasta intenta atq; in altum erecta, ut ex ea quasi ex cruce quadam miser ille penderet, primum compagem ipsam ossium illius divellebant, deinde candentibus ejusdem corpori laminis admotis, bisulcis ungulis ferreris lateribus laniatis doloris acerbitatem augebant.* And thus we see what the use of those *Laminæ* & *Ungulæ* were; namely, that they were not several torments of themselves, but adjuncts to this, to increase the pain. The *Eculeus* was sometimes called *e lignum tortorium*; sometimes *f stipes noxialis*. The torturing Engine called *Fidicula*, was not much unlike: *Fides* signifyeth the string of any musical instrument, and the Engine had its name from the strings and cords wherewith men were tortured upon it: of this *g Turnebus* writeth, *Fidiculæ quæ in tormentis numerantur, mihi videntur lascivia quadam joci novem invenisse quod ut in fidibus nervi item quoq; ut hinc & inde multis funibus homines distendebantur.* The torment χρινισμὸς used by the *Grecians*, was either this same or very like

d Sig. de. jud. l. 3. c. 8.

e Sozo. hist. Eccl. l. 5.

f Prudent. in hymno. Vincent. Mart.

g Turn. adv. l. 4. c. 3.

CAP.

CAP. 8.

De rupe Tarpeia dejectio. De lapide empti. A furca redempti. Scalæ Gemoniæ. Tunica. Damnatio in gladium, in ludum, ad beſtias.

MAlefactors for notorious offences were tumbled down headlong from a certain rock in the *Tarpeian* Mount. This kind of puniſhment was called either ſimply *Dejectio è ſaxo*, or *Dejectio è Tarpeia rupe.* In ſome caſes notwithſtanding by the interceſſions of friends, or ſome other meanes, Pardons were ſometimes obtained for the condemned perſons, whereby they were freed from death, howſoever the diſgrace and infamy cleaved ever after unto them, and therefore they were termed *de lapide empti:* which phraſe *b Cœl. Rhod.* hath paralle'd with that; *à furca redempti*, that is, *Saved from the Gallows.* In the *Aventine* Mount was a place of like nature, called *Scalæ Gemoniæ*, certain ſtairs whither condemned perſons were dragged, and ſo caſt into the River *Tiber. Cœl. Rhod.* ſeemeth to be of another opinion: *i* who deſcribing this puniſhment, ſaith that a hook was thruſt into the malefactors throat, and ſo he haled by the Executioner unto theſe ſtairs, where having his thighs broken he was burnt. Furthermore he addeth that they were called *Scalæ Gemoniæ* or *gradus Gemonii*, becauſe as ſome are of opinion, the firſt that ſuffered this kind of puniſhment, his name was *Gemonius*: or as others would have it, becauſe it was *locus gemitus & calamitatum.* If we admit that malefactors were here burnt, then may we think this puniſhment *ad Scalas Gemonias* to be the ſame which ſometimes was called *Tunica.* The reaſon of which name was, becauſe perſons thus to be burnt, were clad with a Coat dawbed in the inſide with pitch and brimſtone. Thence is that of *k Seneca, Cogita illam tunicam alimentis igneam & illitam, & intextam.* This giveth light to that of *Juv. Sat. 8. Tunica punire moleſta.*

b Cœl. Rhod. ant. l. 25. c. 22

i Cœl. Rhod l. 10. c. 5.

k Sen. ep. 14.

l Tertullian also mentioneth it in this sense. To these may be added two other punishments usually inflicted upon fugitive servants, but yet not so restrained unto them, as that they were not sometimes extended to other malefactors. The first is *Damnatio in gladium*, a condemning one into a Fence-school, there to be trained up in the Art of Fencing, untill some publick prizes were plaid, at which time such a condemned person was to fight for his life, *m Capitolinus* calleth it *Ad gladii ludum deputationem*. But *Ulpian*, as *n Lipsius* elsewhere observeth, differenceth these two phrases thus: He that was *ad gladium damnatus*, was either presently put to death, or else at farthest within the compass of a year: but he that was *damnatus in ludum*, had not death so peremptorily sentenced upon him: if he escaped the danger of those publick prizes, and alwayes got the upper hand of his adversaries, at three yeares end he received the *Rudem* or wand, which was a token of discharge from those bloody combates: yea, at five years end he received the *Pileum* or Cap, which was a token of enfranchisement or freedom in the City. The second sort was *Damnatio ad bestias*, a condemning of a man to fight for his life with beasts, as with Bears, Leopards, Lions, &c. The persons condemned, were termed *o Bestiari*. A memorable example thereof we have in a certain Roman servant called *Androclus*, *p* who having run from his Master, lived in a wilderness, and whiles he rested himself in a den, there came a fierce Lion unto him, moaning and grieving because of the stump of a Tree which stuck fast in his foot: *Androclus* at first began to be affrighted, but the Lion coming nearer and nearer unto him, and laying his foot on the mans lap, intimated his desire of help from him, which when the man perceived, he plucked out the stump, and gave him what ease he could. Afterward this fugitive being apprehended and adjudged to this punishment, it hapned that this very Lion was brought into a shew-place for *Androclus* to fight with, where instead of

l Tertul. ad Martyr.

m Vid. Lipſ. Sat. l. 2. c. 3.

n Lipſ. Sat. l. 2. c. 23.

o Alex. ab Alex. l. 3. c. 5.

p A. Gell. l. 5. c. 14.

a fierce onset, the Lion used a tame and familiar fawning on him, whereupon the spectators admired, and understanding the former passages between *Androclus* and the Lion, they released the servant, and freed him from his punishment. Where we must note, that this Pardon was extraordinary: *q* for usually if any so condemned happned to overthrow a Beast or two, yet was he not thereby discharged, but was to encounter with others untill he were killed. Yea, it was very seldom that the man could prevail against the beast; on the contrary, one Lion hath prevailed against two hundred men, according to that, *r Præclara ædilitas, unus Leo ducenti bestiarii.* By which we see many men one after another did thus fight with beasts at the same meeting: yea the *s Grecians* calleth such as succeeded the first Combatants ἐφέδρους; the Apostle St. *Paul* calleth them ἐσχάτους, because they were reserved untill the last. *u Tertullian* readeth that place in this sense, and the words themselves enforce as much: for what shall we understand by θέατρον ἔτεν ἔθεμεν, but the very spectacle or shew it self (and what ἀπέδειξεν, which signifieth properly *Ostendit*, but an allusion to him who was the chief Author and exhibiter of these bloody spectacles unto the people?* *Lipsius* hath parallel'd that phrase of *Tully, ostendere munus*, with that of *Suetonius, proponere munus*; both signifying the setting forth or bestowing the sight of such masteries and fightings. And that it was no unusual kind of Martyrdom in times of the the Primitive Church, thus to expose holy men to the fury and rage of wild beasts, appeareth by the example of *Ignatius*, who rejoyced to be ground between the teeth of wild beasts, that he might be found pure bread; whose words were *x Frumentum sum Christi, & per dentes bestiarum molor, ut mundus panis Dei inveniar*; yea the word Ἐπιθανατίους, *morti addictos*, helpeth this interpretation: The word intimateth that there was a sure death remained for them also, though the last; The custom being in the morning to commit men with beasts, but those

q Salmut. in Pancirol. de veter. ludis.

r Cic. in orat. pro Sastio.

s Suidas. in voce ἔφεδρος † 1 Cor. 4. 9.

u Tertul lib. de pudicit.

* Lips. Sat. l. 2. c. 18.

x Iren. adv. hær. l. 5. c. 28. It. Eus. hist. Eccl. 3. c. 33.

ἔσχατοι

ἑσχατοὶ· which remained till noon-tide, and were therefore called *y Meridiani*, were committed each against other, and that without any defensive weapons, with swords in one hand cutting, and with the other hand being empty, grasping and tearing each others flesh, so that *z Seneca* speaking of this, comparing it with that former fighting with beasts, saith *Quicquid ante pugnatum est, misericordia fuit.*

y Suet. Clau. c. 34.

z Sen. ep. 7.

CAP. 9.

Ergastulum. Ergastula inscripta. Pistrinum. Damnari in Antliam. Metallum. Inscripti. Stigmatici. Literati. Virgæ. Flagella. Talio.

THe state and condition of servants was various and differing among the Romans in old time, but of all they were most miserable who lived in prison. Whence those that were ordinarily imployed in these prison services, they were either such servants as were bought for that purpose, or such as for notorious crimes were adjudged thereunto in way of punishment, whence the word *Ergastulum* is justly derived from the Greek, Εργάζομαι because it is τόπος ἐν ᾧ οἱ δεσμῶται Ἐργάζονται *locus in quo vincti operantur*. For even in the day time when they were sent to work, they had shackles and bolts about their legs to prevent their scapes or running away, though not so big as those into which they were cast at night when they returned into prison. Their fetters or bolts are oftentimes in antient Writers (peradventure from the form of their links) termed *Annuli*, and they themselves said to have *pedes Annulatos*. They had also their foreheads marked or burned with some letters of infamy, which is the reason of *Juvenals* Epitheton, *Inscripta Ergastula.*

Quem mirè adficiunt inscripta Ergastula.

The labours in which they were imployed, were sometimes digging, delving, and tilling the ground: sometimes digging of quarry pits, sometimes grinding with an hand-mill, sometimes drawing water: This latter kind of

of puniſhment in *m Suetonius* his phraſe is *In Antliam damnari.* Thoſe Criticks who for the word *Antlia* do ſubſtitute *Anticyra*, or *Andia*, or ſuch like names of Iſlands, do utterly fail of the Authors ſcope and driſt: for the puniſhment which *Suetonius* ſpeaketh of, is ſome ſtrange or unuſual puniſhment: now ſeeing that Senators themſelves were often exiled, it could not ſeem ſtrange that Roman Knights ſhould be baniſhed into forraign lands; but this was a matter unuſual, and unheard of, that a Roman Knight ſhould be imployed in ſuch drudgeries. Again, the word *Antlia* fitly denoteh ſuch a kind of labour, whether we reſpects its Etymologie ἀπὸ τῦ ἀντλᾶν or its ſignification in Latine Authors, it being uſed by them to ſignifie a great bucket or water-ſcoop to draw up water. Thus *Martial. Curta laboriaas antlia tollit aquas.* The hand-mill is often expreſt by the Latine word *piſtrinum*, a word frequent in Comical Authors. It much reſembled our *Bride-well*, or place of correction, being called *piſtrinum à pinſendo*, from pounding. For before the uſe of mills was known, the Romans did pound their corn in a great morter, calling the place where they pounded it *piſtrinum*: whereupon our hand-mill hath retained the ſame name to this day. And becauſe of the great pains that men did ſuffer in pounding, as likewiſe the ſtrict diſcipline uſed towards ſervants thus puniſhed (for *u* their neck was thruſt into a certain wooden Engine called *Pauſie capi*, made for the purpoſe, leſt haply in time of grinding they might eat of the meal) hence grew a cuſtom among them, that when a ſervant had offended his Maſter, he would menace him in this manner, *In piſtrinum te dedam*, I will caſt thee into *Bride-well*. The puniſhment *Metallum* was not much unlike the digging in mettal-mines, and working in mettal houſes; it appeareth not only to have been a baſe and ſervile, but alſo a very laborious and painful work; whence it was eſteemed a greivous puniſhment to be adjudged to mettal works, or caſt into a mettal houſe. And either for the encreaſe of ſuch

m Suet. Tib. c. 51.

n Turn. adv. l. 4. c. 13.

such mens pains, or for to keep them from escapes, they were enforced to work with their fetters and gyves about them, as is implied by *o Ulpian*, who makes the difference between these two phrases, *Damnari in metallum*, & *Damnari in opus metalli*, to be thus; that the first sort did wear heavier and greater fetters than the last. How true the difference is, I leave to the enquiry of others; but that it was a great and infamous punishment, *p Tertullian* witnesseth, in that speech of his against the Heathen people, *De vestris semper æstuat carcer, de vestris semper metella suspirant.* Sometimes there was only ignomy and disgrace intended in their punishments, of which sort was the bearing up and down the Roman *furca* in the Market-place, or elsewhere in publick view, whereof I have spoken in the Chapter of *Furca*; likewise a branding of the malefactor with some infamous letter in his forehead or hand, or some other part of the body: whence *q Pliny* calleth such servants *Inscriptos*. Generally they are called *Stigmatici*, from στίζω, which signifieth to brand with marks; as *Nebulo stigmaticus*, a rogue burnt in the hand, or any way marked; sometimes such are called *Literati*. The *Athenians* being enemies to the *Samii*, as often as they took them captives, they did use thus to burn them for rogues, which occasioned that proverbial scomm, *Samiis neminem esse literatiorem.*

o Vid. Cœl. Rhod. l. 10. c. 5.

p Tertul. Apolog. c. 44.

q Plin. l. 18. c. 3.

r Cœl. Rhod. l. 7. c. 13.

Sometimes besides the disgrace, there was also toilsom pains, as appeared by their *Ergastula*, and sometimes to their pains, stripes added: Though I deny not but that many times, correction with stripes was a preparation for death it self. This correction by stripes was twofold; either it was *Verberatio*, or *Flagellatio*: The first was with rods called *Virgæ*; the other with scourges called *Flagella*. That there was a difference between *Virga* and *Flagella*, is plain by *Tully*, where by way of irony he saith, *Porcia lex virgas ab omnium civium corpore amovit; hic misericors flagella retulit.* Both of them were counted servile, so that freemen were ordinarily exempted from them, as appeareth.

——*m Ad necem operire loris. San. Horis liber?*

Horace alſo intimating the ſervile condition of *Mœva* ſaith:

n Sectus flagellis hic Triumviralibus.

They are called *Flagella Triumviralia*, from thoſe *Triumviri* who formerly I tranſlated Sheriffs, becauſe to them belonged the overſight of this puniſhment. *Euſtathius* calleth them ἀσσαβάτας μάστιγας, i. e. *Flagra talaria, ſeu taxillata*, becauſe to augment the pains, they did uſually in theſe ſcourges tie certain huckle-bones, or plummets of Lead at the end of the whip-cords, or thongs, and ſuch ſcourges they termed *Scorpiones*. The cruelty of the ſcourges was ſuch, that they many times died under them. Thus have we generally and briefly touched the more uſual puniſhments. But ſometimes wrongs done between party and party, were puniſhed with a retaliation of the ſame kind: according to that, *A tooth for a tooth, and an eye for an eye*. And this kind of puniſhing was called *Talio*. Yet we are to know that a ſimple retaliation, ſuch as is termed *Talio Pythagorica*, was not alwayes exacted, but ſometimes ſatisfaction might be wrough by a commutation of the puniſhment. *o Reus habuit facultatem paciſcendi, & non neceſſe habuit pati talionem, niſi eam elegiſſet*. It were endleſs to ſpeak of all their Puniſhments, and haply not worth the labour, their very names being ſufficient Comments to explain them. As *Effoſſio oculorum*, *Amputatio manuum*, *Cruri-fragium*, *Taliſragium*, and ſuch like.

m Ter Adelp. act. 2. ſcen. 1.

n Epod. Od.

Tholoſan. in ſyntag. jur. univ. c. 11. l. 31.

o A. Gel. l. 11. c. 1.

LIB. III. SECT. IV.

Of the Roman *Laws.*

CAP. I.
De Legibus.

HAving ſpoken of the Civil Magiſtrates, and Puniſhments, we will now alſo deſcend unto the Civil Law: where firſt we will note among other differences between *Jus* and *Lex*, principally theſe. 1. *Lex* ſignifieth only the Law, but *a Jus* ſignifieth alſo that place whereſoever the Law of Juſtice was adminiſtred: not only if it were adminiſtred out of the Tribunal in the *Comitia*, or great Hall of Juſtice, which was termed by the Lawyers *Agere pro Tribunali*: But alſo if it were adminiſtred in a private houſe, or in ones journey, ſo that it were by a lawful Magiſtrate, and out of the curule chair; and that was termed by the Lawyers, *Agere de plano*; and hence is it that *In jus vocare* ſignifieth to cite one into the Court. 2. *Lex* ſignifieth only the written Law, but *Jus* ſignifieth equity, ſo that *b Jus permaneat ſemper nec unquam mutetur, Lex vero ſcripta ſæpius.* Notwithſtanding theſe two words are uſed promiſcuouſly one for the other, and therefore leaving all curious differences between thoſe words (whether the Roman Laws were truly *Jura* or *Leges*) thus much we may obſerve, that the laws uſed among them were of three

Sig. de jur. l. c. 7.

b F. Sylv. in orat. pro Mil.

three sorts: either they were such as were made by several *Roman* Kings, and afterward collected and digested into a method by *Papirius*, *c* from whence it was called *Jus Papirianum*: or they were such as the *Decem viri* brought from *Athens*, and were called *Leges 12 Tabularum*: or lastly they were such as the *Consuls*, the *Tribuni plebis*, and such Magistrates did prefer, whence every several law bore the name of him or them that preferred it. My purpose is to explain only this latter sort, and that not all of them, but such alone as I have observed in *Tully*, and that chiefly in his Orations. My proceeding shall be first to shew the divers kinds of Judgements: and then to descend unto the laws themselves, beginning with those which shall concern the *Roman* Religion, and then proceeding to the others which concern the Common-wealth.

c F. Sylv. in ep. virorum illust. l. 5. ep. 11.

CAP. 2.

De Jure publico & privato.

THe cases to be decided by the law were either publick or private, and accordingly were the judgements *d vel privata in quibus jus suum privatus quisq; persequebatur; vel publica, in quibus injuria quæ reip. facta erat vindicabatur.* The private (as we observed before) belonged unto the *Prætori urbano & peregrino*, that is, the Chief Justices who did either give judgement themselves, and then were they said *judicare*, or they did appoint others to sit in judgement, and *e* then were they said *Judicium dare*: in the absence of the *Prætor* there were ten called *decem viri litibus judicandis*, i. e. *f super lites judicandas*, who in the same manner as the *Prætor*, might either give judgement themselves, or appoint others, for they were even in *g* one place, and instead of *Prætors*. Those which either the *Prætor* or the *Decem viri* did appoint to debate the cases under them, were taken out of the *Centum viri*, and is *h* out of certain Commissioners chosen for that purpose

d Sig. de jur. Rom. l. 2. c. 18.

e Sig. de jud. l. 1. c. 7.

f Rosin. ant. l. 7. c. 29.

g Alex. Gen. dier. l. 3. c. 16.

h P. Ramus. in 2 m. de lege Agrar.

pose, namely three out of every Tribe or ward: so that in all the number of them amounted unto an hundred and five: but in a round reckoning they went for an hundred: and from a certain spear that was wont to be erected up in token of this court, hence was the *i* court called either *Prætoria Decemviralis*, or *Centumviralis hasta*. In some cases their form of acquittance was thus *k Secundum illum litem do*, whence *l Tully* saith, *quo minus secundum eos lis detur, non recusamus*, that is, we do not deny but they may be acquitted. Those that were cast in their suit, were said *Lite vel causa cadere*. The publick cases belonged ordinarily (except the *Consuls*, the Senate, or the people did interpose their authority) unto those whom we called *Prætores Quæstores*. Some have thought them to be the same with those whom *m Rosinus* calleth *Judices Quæstionum*, and that I think not altogether upon unsure grounds: first, because much of these publick cases which they termed *Quæstiones*, had their *n* several *Prætors* to enquire them, whence they were called *Quæstores*; and may in my opinion be called *Judices Quæstionum*, especially seeing that those which would have them be different officers, cannot well shew the differences of their offices. Now as the Urban *Prætor* had a hundred Commissioners under him, so had these *Prætores Quæstores*, certain Judges chosen *o* by the Urban, or forreign *Prætor*, when he took his oath: and that not according to his pleasure as many as he would, or whom he would, but sometimes more, sometimes fewer, sometimes only out of the *Senators*, sometimes only out of the order of Roman Gentlemen, sometimes out of both, sometimes also out of other orders, *p* according as the law appointed, which oftentimes varied in those points. The Judges how great soever the number was, *q* were called *Judices selecti*, and were divided into several companies called *Decuriæ*. These Judges were upon any citation from any of the *Prætors*, to give their assistance in the Court upon the day appointed by the *Prætor*. Now the manner how they

Sig. de jud. l. 1. c. 28.

k Sig. de. jud. l. 1. c. 29.

l Cic. pro Q. o sc ia.

m Rosin. ant. l. 2. c. 18.

n Sig. de jud. l. 2. c. 4.

o Sig. de jud. l. 2. c. 6.

p Sig. ibid.

q Sig. de. jur. Rom. l. 2. c. 18.

they did proceed in their judgement, followeth in the expoſition of one of the Laws, and therefore I will refer the Reader thither. Only let him by the way underſtand, that whereas *Tully* is quoted in every law, it is not ſo much for the proof of the law, as to ſignifie that he in that place maketh mention thereof. For the proof of the laws I refer the Reader to *Roſinus* and *Sigonius*; touching the expoſitions, my marginal quotations do prove ſufficient.

CAP. 3.
De legibus religionem ſpectantibus.

Lex Papiria.

L. *Papirius Trib. pleb.* eſtabliſhed a law touching the Conſecration or hallowing of places, that it ſhould be unlawful for any to conſecrate either houſes, grounds, altars, or any other things, *Injuſſu plebis*, that is, without the determination of the Roman people in their aſſemblies, called *Comitia Tributa*, which determination was alwayes termed *Plebiſcitum*. Cic. pro. Domo. Cic. Phil. 2. Item pro.

Roſcia lex.

L. Roſcius Otho. Trib. pleb. preferred a law, that whereas heretofore the Roman Gentlemen did ſtand promiſcuouſly with the Comtons at their Theatral ſhews, now there ſhould be fourteen benches or ſeats built for thoſe Roman Gentlemen which were worth H. S. *quadraginta*, that is, about 3125. *l.* of our Engliſh money. As for other Gentlemen, whoſe ſubſtance was under the rate, they had a certain place allotted them by themſelves, with a puniſhment impoſed upon them, if they offered to come into any of thoſe fourteen benches.

Here we muſt note that this character *H. S.* ſtandeth for a ſil ver coyn in *Rome*, called *Seſtertius*, and is by *Roſinus* in this place improperly uſed for *Seſtertium*; for this Character *H. S.* is by our Printers falſe Printed, the true Character *r* being *L. L. S.* ſignifying *duas libras* (as the two *L. L.* do intimate) and *Semiſſem*; which is intimated by the rFr. Matur. in Phil. 2.

the letter *S.* Where if *Libra* doth ſignifie no more then the *Romans* coyn called *A.S.* then is this opinion touching the characters *L.L.S.* eaſie to be confirmed. For divers authors[f] rendring a reaſon of the name *Seſtertius*, ſay it was ſo called *quaſi Semitertius*, that is, ſuch a coyn as containeth *Duos ſolidos aſſes & ſemiſſem.* This *Seſtertius* was ſuch a common Coyn among the *Romans*, [t] that *Nummus* & *Seſtertius* became at length one to be uſed for the other. [u] *Mille hujuſmodi ſeſtertii vel nummi faciunt unum ſeſtertium in neutro genere, & conficiunt plus minus viginti quinque coronas.* According to which rate, *quadraginta ſeſtertia* amounteth to 3125. and every particular *ſeſtertius* is according to this rate, in value three halfpence farthing *q*.

[f] Ch. Hegendorphius in Verinam. 1.

[t] P. Nannius in Verin. 5.

[u] Ch. Hegendorphius in Verinam, 5. m.

And here we may fitly obſerve the art of numbring by theſe *Seſterces*, which conſiſteth in three rules. Firſt, if the numeral or word that denoteth the number be a noun adjective agreeing in caſe, gender and number with the ſubſtantive *ſeſtertius*, then it ſignifieth preciſely ſo many *ſeſtertii*; for example ſake, *Decem-ſeſtertii* do ſignifie ſo many times *i*[l]. *ob. q*[a]. *q.* 2. If the numeral being an adjective, and of a different caſe, be joyned with *Seſtertiûm* in the genitive caſe plural, then doth it note ſo many thouſand *Seſtertii*. For example, *Decem Seſtertiûm* ſignifieth ten times 7. *l.* 16. *s.* 3. *d.* Thirdly, if the numeral joyned with *Seſtertiûm* be an Adverb, then it ſignifieth ſo many hundred thouſand *ſeſtertii. ex. gra. Decies ſeſtertiûm* do ſignifie ten hundred times 7. l. 16. *s.* 3. *d.* Yea the numeral being an adverb, is ſometimes put ſimply by it ſelf, without the addition of any other word to ſignifie in the ſame manner, the genitive caſe *Seſtertium* being underſtood. For the better conceiving hereof the former example may be thus ſet down.

Decem

Decem seſtertii.	valent	10. *Seſtertios*	de noſtro	0000 l. 01. s. 6. d. *ob q.*
Decem ſeſtertiũm.		10. *Millia ſeſtertiũm.*		0078. 02. 6. 0. 0.
Decies ſeſtertiũm. *Decies.*		10. *Centena Millia ſeſtertiũm.*		7812 10. 0. 0. 0.

Clodia lex.

Publius Clodius Trib. Pleb. made a law, by vertue whereof the Prieſts called *Peſſinuntius ſacerdos* (from the place where he did firſt exerciſe thoſe holy rites in the honour of the mother Goddeſs) ſhould be deprived of his Prieſthood, and the temple built in the honour of this Goddeſs ſhould be beſtowed upon *Brodigarus* of *Galla-Gracia.* Cic. pro Sext. item de Aruſp. reſpon.

Domitia lex.

Cn. Domitius Abenobardus Trib. pleb. enacted a law, that the Colledges of Prieſts ſhould not as they were wont, admit whom they would into the order of Prieſthood, but it ſhould be in the power of the people. And becauſe it was contrary to their religion, that Church-dignities ſhould be beſtowed by the common people, hence did he ordain that the leſſer part of the people, namely ſeventeen Tribes ſhould elect whom they thought fit, and afterward he ſhould have his confirmation or admiſſion from the Colledge. Cic. Agrar.

Lex incerti nominis de vacatione ſacerdotum.

Cicero in his orations mentioneth a law (not naming the Author thereof) whereby the Prieſts were priviledged from their ſervice in all wars, except only in uproars or civill tumults, *x* and theſe priviledges were termed *Vacationes.* Cic. Phil. 8. & pro Font.

x B. Latom. in Phil. 5.

CAP.

CAP. 4.
De civitate & jure civium Rom.

Forcia lex de civitate.

Cic. pro Rab. & ſæpe alias,

M. *Forcius Trip. Pleb.* eſtabliſhed a law, that no Magiſtrate ſhould beat any Roman Citizen with Rods.

Lex Sempronia.

Cic. pro Cluentio, & ſæpe alias.

C. Sempronius Gracchus Trib. pleb. preferred a law whereby he diſabled the Magiſtrate from puniſhing any Roman Citizen either with rods or with his ax, that is, with death, without the allowance of the people: Secondly, by vertue of this law, if any Magiſtrate did condemn any Roman Citizen *Indicta cauſa*, he ſhould be liable to the judgement and cenſure of the people. A third clauſe to this law was, *Ne quis coiret, conveniret, quo quis judicio publico circumveniretur Indicta cauſa.* He was ſaid to be condemned *cauſa indicta*, which was condemned before he had ſpoken for himſelf. Although *y indicere pro non dicere, ſicut & invidere pro non videre vix reperiatur, tamen indictum & inviſum, pro non dicto & non viſo, ſæpe reperiuntur.* *z* They were properly ſaid *Coire*, which did work under-hand againſt a man that he might be condemned: we may tranſlate it in this place to Conſpire. *a* The verb *Circumvenio* doth commonly ſignifie as much as *Circumſcribo*, to deceive or cheat one: but in this place to oppreſs one with falſe judgment procured by bribery or confederacy.

y P. Ramus in orat. pro Rab.

z F. Sylv. in orat. pro Cluentio.

a J. Camer. in orat. Cic. pro L. Flac.

b F. Sylv. in orat pro Cluentio.

Lex Papia de peregrinis.

Cic. pro Balb.

The priviledges of the Roman Citizens became ſo great, that almoſt all the inhabitants of the confederate nations, would forſake their own dwelling, and uſe meanes to become free deniſons in the Roman City: inſomuch that the Embaſſadors of the allies and aſſociates did grieve much and complain of the loſs of their inhabitants: whereupon a law was made by *Papius*, that all forreigners and ſtrange comers ſhould be expelled out

out of the City. To the ſame effect was *Lex Junia*, and alſo *Licinia Mutia de peregrinis*: the firſt being preferred by *Mar. Junius Pennus*, the ſecond by *L. Licinius Craſſus*, and *Qu. Mutius Scævola*. Cic. offic. l. 3.

Servilia lex de civitate. Cic. pro Balb.

C. Servilius Glaucia preferred a law, *Ut ſi quis Latinus*, if any of the Latine aſſociates could prove an action of bribery againſt a Senator, then ſhould he be made a freeman of the City.

Quis Latinus.] Here we will obſerve with *c Sigonius*, that the Latine people were not alwayes called *Latini, & Italici: ſed & ſocii, & Latini ſocii, & ſocii nominis Latini; & ſociinomenq; Latinum, & ſocii ab nomine Latino, & ſocii ac Latinum dicti ſunt.* c Sig. de jur. Ital. l. 1. c. 2.

Sylvani & Carbonis lex de peregrinis. Cic. pro Archia.

Sylvanus & Carbo being *Tribuni pleb.* preferred a law, *Ut qui fœderatis civitatibus adſcripti eſſent ſi tum, cum lex ferebatur, in Italia domicilium habuiſſent, ac ſex aginta diebus apud Prætorem profeſſi eſſent, cives Romani eſſent.*

Adſcripti] For the right underſtanding hereof we muſt note, that there were *d* two ſorts of Citizens; ſome *cives nati*, that is, Citizens by birth, others *civitate donati*, that is, Citizens by donation or gift; who becauſe they were added unto, and regiſtred with the firſt ſort of Citizens, were thence called *Adſcripti cives*. d F. Sylv. in orat. pro lege Manil.

Profeſſi apud Prætorem.] This verb *profiteri* is ſometimes *e Comitiale verbum*, and ſignifieth as much as *profiteri nomen*, that is, to render ones name unto a Magiſtrate; and this conſtruction it beareth in this place. e P. Ramus in orat. Cic. Agr. 2.

Lex Cornelia de Municipiis. Cic. pro Dom.

L. *Cornelius Sylla* preferred a law, that all *Municipal* States ſhould loſe their freedom in the *Roman* City, and alſo their priviledge of having commons in the Roman-field.

Gellia Cornelia lex. Cic. pro Balb.

L. *Gellius Publicola*, and *Cn. Cornelius Lentulus* being

Consuls, decreed a law, that all those private persons upon whom *Cn. Pompeius* in his wisdom should bestow the freedom of the Roman Citizens, should ever be accounted free Denisons.

CAP. 5.
De legibus ad Comitia spectantibus.

Ælia lex.

Cic multis in locis.

Q. *Ælius Petus* asked a law in time of his Consulship, *t quoties cum populo ageretur*. that is, as often as any Roman Magistrate did assemble the people to give their voices, the *Augures* should observe signs and tokens in the firmament, and the Magistrate should have power *obnunciandi, & interdicendi*, that is, to gainsay and hinder their proceedings.

f Agel. l 13. c. 14.

Ageretur cum populo] Here we may note the difference between these two phrases *Agere cum populo*, and *agere ad populum*; *f* He was said, *agere ad populum*, whosoever made any speech or Oration unto the people, and this might be done upon any day indifferently. But then only was it said *Agi cum populo*, when the people were assembled to the giving of their voices by a lawful Magistrate, and the people were demanded what their opinion was in the matter proposed: and this could not be done *g* but upon one of those dayes which they called *Dies Comitialis*.

g Bersm. de ver. dier. ratione ad fin. Ovid. Fast. Cic. in suis orat. sæp.

Fusia lex.

Pub. Furius si ve Fusius Philus, being Consul, ordained a law, that upon some certain dayes, although they were *dies Fasti*, that is, Leet-dayes, yet no Magistrate should summon an assembly.

Clodia lex.

Cic. pro Sext.

P. Clodius Trib. pl. abrogated both those former laws, making it unlawful to observe signs and tokens in the heavens, upon those dayes when the Roman people were to be assembled. And secondly, making it lawfull to assemble

assemble the people upon any Leet-day whatsoever. Cic. 3. de leg

Gabinia lex.

At first, for many years the Roman people in their assemblies did suffrage *Viva voce*, at which time many of the inferiour sort gave their voices contrary to their wills, fearing the displeasure of those that were of higher place. For the better help in this point, *Gabinius* asked a law, that the people in all their elections might not suffrage *Viva voce*, but by giving up certain tablets, the manner whereof hath been formerly shewn; whence both this, and all other laws tending to this purpose have been called *Leges tabellariæ*. Cic. in Lælio.

Cassia lex.

After *Gabinius*, *Cassius* also preferred a law that both the Judges in their judgements, and the people in their assemblies should suffrage by rendring such tablets: *h* but this is to be understood only of those assemblies by wards called *Comitia Tributi*: wherein they treated of mulcts and mercements. *h* Rosin ant. l. 8. c. 3.

Cœlia lex.

Cœlius Trib. pl. established a law, that not only in mulcts and mercements, but also *In perduellionis judicio*, that is, in taintments of treasons against any person of State, (namely such as were *sacrosancti*) or against the Common-weal, this *Tabellary* liberty should have place, when the people should judge thereof. Cic. 3. de leg.

In perduellionis jud.] *i* This word *perduellis* doth signifie an enemy unto the State, a traitor; and hence cometh this word *perduellio*, signifying not only the crime of treason, but the punishment also due thereunto, *k* *Si crimen quod erat gravissimum inter crimina, nempe imminutiæ majestatis: si pœna, quæ erat acerbissima, nempe mortis.* *i* Cœl. Sec. Curio in orat. pro Milone. *k* Sig. de jud. l. 3. c. 3.

Papiria lex.

C. Papirus Carbo Trib. pl. perswaded that not only in their elections, but in the proposal of their laws also this suffraging by tablets should be used. Cic. de leg. 3.

Sempronia lex.

Cic. multis in locis. *C. Sempronius Gracchus Trib. l.* preferred a law, that the Associates of *Latium* should have as great right of suffraging as the Roman Citizens.

Manilia lex.

Cic. pro Mur. *C. Manilius Trib. pl.* preferred a law, that all those who were *Libertini*, in what Tribe or Ward soever, should have the right of suffraging.

CAP. 6.

De Senatu & Senatoribus.

Claudia lex.

Cic. Verr. 7. Q. *Claudius Trib. pl.* perswaded a law, that no Senator or Senators father, should have any ship which should contain above three hundred of those measures called *Amphoræ*, deeming that sufficient for the transportation of their Corn from the Romans field. Secondly, by this law the Senators were forbidden the use of trading.

l Alex. Gen. dier. l. 2. c. 20. *Amphora*] *l Alexander Neopol.* observeth two sorts of these measures, namely, *Amphora Italica*, containing two *Urnas*, and *Amphora Attica*, containing three *Urnas*: every *Urna* containing two Gallons and a Pottle. This in probability is understood of the *Italian Amphora*.

Tullia lex.

Cic. Phil. 1. When as a custom had grown, that many of the Senators having by special favour obtained *Liberam legationem*, upon all occasions would abuse that their authority, procuring thereby their private gain, and the encrease of their own honour, then *M. Tullius Cic.* being Consul, laboured quite to take away these kinds of embassages, which though he could not effect, yet thus far he prevailed, that whereas in former times this *Libera legatio* being once obtained, was never (nor through a mans whole life) taken from him again: yet afterward

ward this authority ſhould never be granted to any, longer than the ſpace of one whole year.

Legatio Libera] We may obſerve in antient Authors, three ſeveral kinds of Embaſſages: The one, which is a meſſage ſent from the Prince or chief Governour of one Country unto another, and that is expreſſed commonly by this one word *Legatio*, without any addition thereunto; ſomtimes it is called *Legatio mandata*. The ſecond, which is when one purchaſeth the title of an Embaſſador, thereby the more honourably to perform ſome vow made, whence it was called *Legatio votiva*. The third is the office or title of an Embaſſador, granted upon ſpecial favour unto a Senator, that he might with the greater authority proſecute his private ſuits in law, or gather up his debts in that Province whither he went; this laſt was termed *Legatio Libera*. All three ſorts are briefly touched by *m Toxita*.

m M. Toxit. in orat. Phil. 1.

CAP. 7.
De Magiſtratibus.

L. *Cornelius Sylla* being Dictator, made a law, that all ſuch as would follow him in the Civil War, ſhould be capable of any office or magiſtracy before they came unto their full yeares. A ſecond part of this law was, that the children of ſuch as were *proſcripti*, ſhould be made uncapable of the Roman Magiſtracies. Cic. in Piſon.

Before they came to their full age] For L. *Villius* preferred a law, whereby he made ſuch as were under age, to be uncapable of City-preferments; and thoſe he accounted under age, who had not attained unto that number of yeares which he had preſcribed each ſeveral office: *n* and this law was termed *Lex annalis*.

n P. Ramus in Agrar. 2.

Proſcripti were ſuch perſons as were baniſhed. For the fuller underſtanding look Proſcription in the tract of Puniſhments. *Julius Cæſar* did contrary to this law, *Admiſit ad honores & proſcriptorum liberos. Sueton. Jul.* 41.

Hircia

Hircia lex.

Cic. Phil. 13. *A. Hircius* made a law, that all those that followed *Pompey*, should be made uncapable of all places of office.

Cornelia lex.

Cic. Phil. 2. *L. Cornelius Sylla* finding the *Prætores*, that is, the L. chief Justices not to give sentence alwayes according to equity, yea sometimes to go quite contrary to their own Edict, made a law, that every L. chief Justice should administer justice according to that his first Edict hanged up at the beginning of his office. An addition unto this law was, that the L. chief Justice should not be absent out of the City above ten dayes.

Clodia lex.

Cic. pro Sext. In former times it was lawful for either of the Censors to censure whom he pleased, and how he pleased, except his fellow-Censors did plainly gainsay it, and make opposition therein. But many abusing this their authority, *P. Clodius Trib. pl.* made a law that the Censors should not over-skip any in their election of Senators; neither should they brand any with disgrace, except such as had been accused unto them, and been condemned by them both.

Valeria lex.

Cic. Verrin. 4. The office of a Dictator at the first institution continued but six months space, until *L. Valerius Flaccus* being *Interrex*, in the vacancy of the Consuls, preferred a law, that *L. Cornelius Sylla* should be a perpetual Dictator.

Cornelia lex.

Cic. 3 de leg. *L Cornelius Sylla* in the time of his Dictatorship, did by vertue of a law preferred by him, clip the authority of the *Tribuni pl.* disabling them of bearing any office after the expiration of their Tribuneship, taking away their authority of preferring laws, of using any solemn speech, or publick oration unto the people, of hearing appeals, of hindring any Statute or Decree tending to the hurt of the populacy.

CAP.

CAP. 8.
De legibus.

Cæcilia Didia lex.

Cæcilius Metellus, & Titus Didius being Conſuls, forbad that *Una rogatione*, that is, in one and the ſame bill many things ſhould be propoſed unto the people: leſt by that means, the people by granting the whole bill, might grant ſomething which they would not, or in denying the whole bill, might deny ſome particular clauſe, which by it ſelf they would have accepted. Moreover theſe two Conſuls ordained, that before a law ſhould be asked in the aſſemblies it ſhould be promulged, that is, hanged up to the publick view of the people three Market dayes. Cic. pro dom. ſua ad pontif.

Junia Lacinia lex de trinundino.

Junius Silanus, and *L. Licinius Murena* being Conſuls, eſtabliſhed that law of *Cæcilius* and *Didius*, annexing a more ſevere puniſhment for the breakers thereof. Cic. Phil. 5.

Clodia lex de interceſſione.

P. Clodius Trib. pleb. made a law, that the *Trib. pleb.* ſhould have full authority and power to propoſe laws: neither ſhould they be hindred by the *Interceſſion*, that is, gain-ſaying of any. Cic. pro Sext.

Licinia Æbutia lex.

Licinius and *Æbutius* being *Trib. pleb.* ordained, that if any preferred a law touching the overſight, the charge, or cure of any buſineſs in hand; neither he, nor any fellow-officer with him, nor any allied unto him, ſhould have this overſight or charge committed to him. Cic. pro dom. ſua ad pontif.

CAP. 9.
De Provinciis.

Sempronia de Provinciis.

C. Sempronius Gracchus Trib. pleb. ordained, that the Senate every year before the election of their Conſuls, ſhould Cic. de prov. conſularibus.

ſhould as it ſeemed beſt to them, appoint out what Provinces the Conſuls now to be elected, ſhould after the expiration of their office go unto; for which provinces afterward the Conſuls deſigned ſhould caſt lots. Another clauſe to this law was, that whereas in former times by a Decree from the Senate, it was lawful for the Tribunes to hinder the Roman aſſemblies, hence forward they ſhould have no authority.

Cornelia de Provinciis.

L. *Cornelius Sylla* being Dictator, preferred a law, that whoſoever went into a Province *cum imperio, tamdiu illud imperium retineret, quoad in urbem reverſus eſſet*: whereas in former times his rule and government was to be reſigned at the expiration of a ſet time appointed; yea although no ſucceſſor were ſent, yet could he not continue there *cum imperio* without a new commiſſion. A clauſe added unto this Law was, that after the coming of any new Preſident or Governour into the Province, the old Provincial Preſident ſhould depart within thirty dayes.

Cic. ep. 9. ad Lentul.

p Sig. de jure. Prov. l. 3. c. 13. *q* Sig. ejuſd. l. c. 6.

Eſſe cum imperio] that is, *p Exercitui præeſſe, q vel habere jus adminiſtrandi, & ſuis auſpiciis gerendi belli.*

Titia lex de Provincia.

Cic. pro L. Mur. *r* Melanct. in orat. pro Mur.

Titius or (as ſome ſay) *Decius* preferred a law, that the Provincial treaſurers called *Quæſtores*, ſhould caſt lots for their Provinces: whence *Tully* in the Oration now quoted, inferreth, that although *Oſtia* being the better Province fell upon *Servius Sulpitius*, yet inaſmuch as it fell *Lege Titia*, that is by caſting lots, he could not therefore challenge any ſuperiority above *L. Murænæ ſed utriuſq; nomen conſedit in Quæſtura*, that is, their fame and renown was equal in their Queſtorſhip.

Julia lex de Provinciis.

Cic. Phil.

C. Julius Cæſar eſtabliſhed two laws touching the Roman Provinces: one, that no *Prætor* ſhould govern a Province above twelve months; nor *Proconſul* above two years. The ſeveral heads or clauſes of his ſecond law could

could not all be found out, but those which have come to light are these: First, that *Achaia*, *Thessalia*, and all *Græcia* should be free; neither should any Roman Magistrate sit in judgement in those Provinces (*Cic. pro domo.*) Secondly, that the Provincial Governours and their *Comites*, that is, assistants or attendants, should have Hay, and all other necessaries provided them on the way, by those Towns and Villages through which they passed. (*Cic. in Pison.*) Thirdly, that the Provincial Magistrates at their departure should leave a Book of their Accounts in two Cities of their Province, and likewise should send a copy of their Accounts unto the Roman Treasure-house. (*Cic. in Pison.*) Fourthly, that it should neither be lawful for the people to bestow, nor for the Provincial Magistrate to receive *Aurum coronarium*, unless it were in a Triumph. (*Cic. in Pison.*) Lastly, that it should be unlawful for the Provincial Magistrate, with the allowance of the People or the Senate, to depart out of their Province, to lead forth any Army, to wage war, or to go into any forraign Country. (*Cic. in Pison.*)

Aurum Coron.] ſ There was a custom among the Romans in times of Victory, to present unto the Lord General Coronets of Gold, instead whereof the after ages presented a certain sum of money, which was thence called *Aurum coronarium*. ſ *Lipſ. de Mag. Rom. l. 2. c. 5.*

Vatinia de Provinciis.

P. Vatinius Trib. pleb. procured a Law, that *Julius Cæsar* should have the Government of *Gallia Cisalpina* and *Illyricum* for five years space, without any Decree from the Senate, or casting Lots. Secondly, that they also should go as Legates, or Lord Deputies unto *Cæsar*, without any Decree from the Senate, whosoever were nominated in that Law. Thirdly, that *Cæsar* should receive money out of the common Treasure-house towards having an army. Lastly, that he should transplant a Colony unto a certain Town of *Cisalpina Gallia*, called *Novocomum*. *Cic. pro Balb.*

Clodia de Provinciis.

Cic. pro domo. *P. Clodius* being *Trib. pleb.* procured a law, that the government of *Syria*, *Babylon*, and *Persia*, should be committed to *Gabinius*; the government of *Macedonia*, *Achaia*, *Thessalia*, *Grecia*, and all *Boetia*, should be committed unto *Piso*; and they should receive together with an Army, Money out of the common Treasury towards their journey.

Clodia altera de Cypro.

Cic. pro Sext. *P. Clodius* preferred another Law, that the Island *Cyprus* should be made a Province. That *Ptolomeus* the King of *Cyprus* sitting in his purple, with his Scepter and other his Princely Ornaments, *Præconi publico subjiceretur, & cum bonis omnibus cum publicaretur*, that is, should himself with all his goods be sold by a common Crier. That *M. Cato* being then Treasurer, *cum jure Prætorio, adjecto etiam Quæstore*, having by Commission the Office of a Lord chief Justice, and another Treasurer to accompany him, should be sent into the Island *Cyprus*, both to make sale of the Kings goods and estate, and also to bring back the money. Lastly, it was decreed by this Law, that those who lived in exilement at *Byzantium*, being condemned for some capital crime, should be brought back unto the City under the name of Romans.

Præconi publico subjiceretur;] For the better understanding of that phrase, we are to understand the manner of port-sale among the Romans; which we may read in *Sigonius* thus. Those things were rightly sold in port-sale, which were publickly sold *per Præconem sub hasta*, that is, by the Crier under a spear sticked up for that purpose, and some Magistrate making good the sale by delivery of the goods. Whence I take *publico præconi subjici*, and *hastæ subjici*, to signifie one and the self-same thing, namely, to be set at sale: and *Cicero* useth almost the self-same phrase, *bona C. Pompeii, voci acerbissimæ subjecta præconis*. This kind of sale was termed *Auctio*: because, as *Sigonius* saith in the same place, to him the goods

a Cic. Phil. 11.

goods were ſold, *Qui plurimum rem augeret*, that is, which would bid moſt for it: and hence is the ſeller thereof termed *Auctor*, as *u Cic. Id quod à malo auctore emiſſent*, that is, that which they had bought of one which had no authority to ſell: and from this cuſtom of ſetting up a ſpear in this kind of ſale, this word *Haſta* alone is uſed, to ſignifie Port-ſale, as *x Haſta Cæſaris*, the ſale of *Ceſars* goods. Thoſe who bought theſe goods, *y Tully* calleth *Sectores*, *z quia ſpem lucri ſui ſectabantur*. In ſuch kind of ſales, a Catalogue or Note of the goods to be ſold was hanged up in Tables, for the publick view of Paſſengers; Whence ſuch goods were termed *ſuſpenſa bona*. And if any friend would redeem the goods, then did he *dejicere libellos*, that is, put in bonds and ſecurity to anſwer the matter. The phraſe is uſed by *Tully*, *Cic. pro Quintio*. And alſo by *Seneca*, *de benef. lib.* 4. *cap.* 12. *Suſpenſis amici bonis libellum dejicio, creditoribus ejus me obligaturus.* It is thus explained by *Turnebus*, *adv. lib.* 12. *cap.* 9. If the ſale proceeded on, then ſuch as propoſed to be Chapmen, ſignified their deſire by holding up their finger: whence *Digitum tollere* ſignifieth the deſire of buying ſuch goods. *Alex. ab Alex. lib.* 4. *cap.* 26.

u Verrin. 7.

x Cic. Phil. 8.
y Cic. in Ver.
z Cic. de jud. l. 2. c. 24.

CAP. 10.
De Legibus Agrariis.

THoſe Laws were termed *Leges Agrariæ*, which did concern the diviſion of the publick, or common fields: And theſe were either given by *Romulus* and other Kings, or taken from the enemies, or from private men which had made incloſures: or laſtly, bought out of the common Treaſury, *a Vide Sigon.*

a Sig. de jur. Ital. l. 2. c. 2.

Sempronia lex Agraria.

b Titus Sempronius Gracchus Trib. Pl. preferred a law, which forbade that any of the *Romans* ſhould have to his own part above five hundred Acres of the common fields, the one half of which it was lawful for his ſon to en-

b Cic. pro Sext.

joy. If it had ſo happened, that any ſhould enlarge theſe common fields, three ſurveyors called the *t Triumviri agro dividendo*, did mark out which was common, which private ground. Moreover it was by this Law provided, that the memory of King *Attalus*, who made the people of *Rome* his heir, might be beſtowed upon thoſe Citizens, which had by this Law obtained a part of the common fields, to the buying of inſtruments for husbandry. Moreover that the Kings lands ſhould be farmed out at a ſet rent by the Cenſors, whence an yearly tribute ſhould be paid to the people.

t Sig. de jur. Ital. l. 2. c. 2.

Cornelia lex.

Cic. in Rul. *L. Cornelius Sylla* being Dictator, preferred a law, that all the fields of thoſe Romans which he had baniſhed ſhould be common. This publication is to be underſtood chiefly of thoſe fields in *Thuſcia*, near unto the City *Volaterra*, and the City *Feſula*, which grounds *Sylla* divided amongſt his ſouldiers.

CAP. II.

De frumentariis Legibus.

Sempronia Lex.

Cic. pro Sext. T. *Sempronius Gracchus* being Tribune of the Commons, provided that a certain quantity of Corn ſhould monthly be given unto the poorer ſort at a low price, *Semiſſe & Triente*: that is, about ſix pence farthing a buſhel: Hereupon was there a place appointed in *Rome*, for the keeping of this common Corn, together with certain laws hanged up there called *leges frumentariæ*. This place was called c *Horrea Sempronia*. The quantity of Corn laid up in every City for this purpoſe is by the latter Lawyers termed *Canon*; as *Canon Alexandrinus*, *Canon urbis Romæ*, *&c. Vide Stuck. de conviv. lib. 1. cap. 35.*

c Roſin. ant. l. 8. c. 21.

Semiſſe & Triente.] It appeareth by the next Law that *ſemiſſis* in this place muſt ſignifie the ſame as *ſenis aeris* doth there: Whereby we may note, that *ſemiſſis* doth not alwayes ſignifie the half part of the *Roman* coyn called

As,

As, but ſometimes it ſignifieth a great coyn, valuing almoſt our ſix pence.

Clodia lex.

P. Clodius Trib. pl. ordained that that Corn which heretofore was ſold to the poor *ſenis æris & trientibus in ſingulos modios*, that is, for ſix pence farthing a buſhel, ſhould hereafter be given *gratis*; the charge and overſight of this dole was committed to *Sext. Claudius*. Cic. pro Sext. in Piſon.

Terentia Caſſia.

M. Terentius and *C. Caſsius* being Conſuls preferred a Law, *Uti alteræ decumæ à Provinciis cœmerentur, pretio in ſingulos modios* H. S. *trium conſtituto: Item ut civitatibus æqualiter imperaretur, pretio in ſingulos modios* H. S. *quatuor conſtituto.* Cic. Verrin. 5. & 7.

For the better underſtanding of this law, we muſt note a threefold Tythe paid by the Provinces. The firſt was the tenth part of the grain growing in the Province to be paid in *gratis*, and that was properly called *Decumæ*, or *frumentum Decumanum*, and thoſe that took this Tythe to Rent, were called thence *Decumani*. A ſecond ſort of Tythes was a certain quantity of Corn taken up for the L. Preſident or chief Governour of the Province, to keep his houſe, and that was called *Frumentum æſtimatum*, that is, Corn gathered up by the way of Taxation: for ſo this word *Æſtimo* coming from *æs* doth ſignifie, *e Eſt autem æſtimare ab ære dictum, id quod vulgo dicunt appreciare & taxare.* The third ſort of Tythes, was when the Senate finding ſcarcity of Corn in *Rome*, did enjoyn the Provinces to ſell them a quantity of Corn at a price ſet down by the Senators themſelves; and this Corn ſold upon injunction, if it was paid but once in the year, it was termed *Frumentum emptum*; but if in the ſame year a ſecond ſale was enjoyned them, then they called that ſecond pay, *Frumentum imperatum*. In the firſt clauſe of this law by [*alteræ decumæ*] is meant *Frumentum emptum*: in the ſecond clauſe, by theſe words [*civitatibus æqualiter imperaretur*] is underſtood *Frumentum imperatum*. d Sig. de jur. prov. l. 1. c. 1. e F. Sylv. in orat pro Cluentio.

Lex

Lex Hieronica.

Cic. Verr. 4. *Hiero* King of *Sicily* obtained a Law, wherein was set down the quantity of Corn that the *Aratores* or country Farmers should pay unto the *Publicani*, that is, those which received the Tythes, together with the time of payment, and the price agreed upon.

CAP. 12.

De legibus sumptuariis sive Cibariis.

IN antient times there was a commendable frugality among the Romans in their feasts, but after ages grew to immoderate excess therein; so that whole Goats and Boars, *&c.* were set on the Table at one time. Such a hog thus dressed *Cincius* was wont to call *a Porcum Trojanum*, alluding to the *Trojan* horse; because the belly thereof was stuffed with variety of Fowl and Rabbets, and such like, as the *Trojan* horse was with armed men. This kind of excess *Tiberius Cæsar* laboured to redress, by serving at his Table cold half-eaten dishes at solemn Feasts, using this proverb, *Dimidiatus aper omnia eadem habet quæ totus.* Hence also men of severe discipline enacted Laws termed *Leges sumptuariæ*, or *Cibariæ*, which prescribed a moderation, not only for the charges in their greatest Feasts, that they should not exceed such and such sums of money, but also for the guests to be invited, that they should not exceed such a number. The chief of these Laws were these that follow.

a Stuck. de conviv. l. 3. c. 3

b Suet. Tib. 34.

Lex Orchia.

C. Orchius being Protector of the Commons, by the consent of the Senate, the third year before *Cato* was Censor, preferred a Law, whereby he onely moderated the number of guests, without any limitation of the charges or superfluous expence at Feasts.

Lex Fannia.

Twenty two years after *Orchius* his Law, *C. Fannius* being Consul enacted another for the moderating of expences,

pences, allowing *non plures denis assibus* to be spent in their ordinary Feasts: But upon those more solemn Feasts dedicated unto *Saturn*, and from thence called *Saturnalia*: likewise when any publick Games were exhibited by the Roman people, he then allowed *Centum asses*, ordaining that no other fowl should then be dressed but onely one Hen, and that not fatted for the purpose.

Non plures denis assibus] The Roman coyn *As* was so called *c quasi æs*, because the matter thereof was *brass*; *d* at first it consisted of a full pound weight; afterward in the first *Punick* war, by reason of the scarcity of money, they made of every pound of brass six of those coyns, each valuing as much as they did at first. In the second *Punick* war there were twelve made of every pound: at last by vertue of a Law which *Papirius* enacted, four and twenty were made of a pound: and so they continued; the value always remained the same, *videl.* ob. q. so that to allow but ten of these to a Feast, seemeth a matter altogether uncredible; but consider with the frugality, the cheapness of those times, it may be granted for a truth; *e* for ten of these were the price of the sheep, and an hundred the price of one Ox.

c Varro. l. 4. de ling. Lat.
d Plin. 33. c. 3.
e A. Gel. 11. c. 2.

Lex Didia.

Eighteen years after *Fannius*, *Didius* ordained that the former sumptuary Laws should be of force, not onely in *Rome*, but throughout *Italy*; Moreover that not onely the Feast-master transgressing, but all the guests, should be liable to the penalty.

Lex Licinia.

P. Licinius Crassus preferred a law in manner agreeing with the *lex Fannia*, whereby he rather confirmed *Fannius* his Law being now antiquated, then made a new.

Lex Cornelia.

Cornelius Sylla being Dictator, ordained a Law for the price of meats, so that he was thought by cheapness of victuals to encrease rather then to restrain superfluities at feasts.

Lex

Lex Antia.

Antius Reſtio preferred an uſeful law to moderate expences in feaſting, which notwithſtanding was violated, and in a manner abrogated by the contrary practice of the Citizens in general. For which cauſe, *Reſtio* afterward being invited, would never come to any feaſt, becauſe he would not be an eye-witneſs of the contempt of that Law which himſelf had cauſed. If any deſire to ſee more laws of this nature, let him read *Stuc. conviv. lib.* 1. *c.* 3. *Aul. Gel. l.* 2. *c.* 24. And *Macrob. Saturn. l.* 3. *c.* 17.

CAP. 13.

De re militari & bellis.

Gabinia lex.

Cic. pro leg. Manilia.

A. *Gabinius Trib. pl.* preferred a law, that the managing of the war againſt the Pirates ſhould be in ſuch manner committed unto *Pompey* for three years ſpace, that over the whole Sea between *Hercules* his Pillars, and in the Maritime Provinces unto the four hundredth *Stadium* from the Sea, he ſhould have power to command any Kings, Lord Preſidents, or whole Corporations to furniſh him with all things neceſſary to that war.

Manilia lex.

Cic. pro leg. Manilia.

C. Manilius Trib. pl. perſwaded a law, that the manging of war againſt *Mithridates* ſhould be committed unto *Cn. Pompeius*: That the whole Province where *L. Lucullus* ruled, together with his whole Army, ſhould be reſigned up unto him: Moreover, that *Bithynia* where *Glabrio* ruled ſhould be added, together with all thoſe bands and forces which he had upon the Sea againſt the Pirates, and all thoſe Provinces over which the Law *Gabinia* did entitle him Governour, as *Phrygia*, *Licaonia*, *Galatia*, *Cappadocia*, *Cicilia*, *Colchis ſuperior*, and *Armenia*.

CAP.

CAP. 14.
De Tutelis.

THis word *Tutela* doth ſignifie a wardſhip, guardianſhip, or protection of a child in his nonage: whereof *f Camerarius* obſerveth four ſorts, and we may with *Pellitarius* add the fifth. Either the overſeers were appointed by will; or elſe the next of the kin were overſeers; or the Magiſtrate did appoint whom he thought fit: and theſe three ſorts *g Omphalius* calleth thus: the firſt *Teſtamentariam*, the ſecond *Legitimam*, the third *Dativam*. The fourth ſort *Camerarius* calleth *Tutelam fiduciariam, quæ eorum eſt, qui emancipati deſiiſſent eſſe agnati.* The fifth *h Pellitarius* calleth *Tutelam honorariam*, namely, when as the office of adminiſtration is committed to others, but yet certain chief overſeers were appointed to ſee the will performed, who were called *Tutores honorarii*. *i* Where we muſt note, that the law provided overſeers, not for children under age only, but for women alſo.

f I. Camer. in orat pro L. Flacco.

g I. Omphal. in orat. pro Cœcinna.

h Pellitarius pro Cœcin.

i Cic. pro Mur.

Emancipati deſiiſſent eſſe agnati] By the Romans law every ſon was much in ſubjection unto his father, that before he could be releaſed of this ſubjection, and made free, he ſhould by an imaginary ſale *k* be ſold three times by his natural father to another man, who was termed by the lawyers *l Pater fiduciarius*, that is a father in truſt: yea, and be bought again by the natural father, and ſo manumiſſed by him, and then he became free. The form of this kind of ſale or alienation, is ſet down more at large in the explanation of one of the laws that followeth, with an example not much unlike this. This imaginary ſale was called *Mancipatio*; the children thus alienated from the father were termed *Emancipati*; this form of ſetting free was termed *Emancipatio*. This *Fiduciaria tutela* then, in my opinion was thus; That when any goods did fall unto a child then

k Vid leg. 12. tabul.

l Sig. de jur. Rom. l. 1. c. 10.

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k Vid leg. 12. tabul.

l Sig. de jur. Rom. l. 1. c. 10.

alienated, by the death of his father, then ſhould not the overſight of this child fall unto the next of the kin, termed *agnati*, but *Quoniam de ſuit eſſe agnatus*, that is, becauſe he had in a manner loſt his alliance with his kindred, therefore ſhould the overſight of the child belong unto the father in truſt, termed *Pater fiduciarius*, whence the guardianſhip it ſelf was called *Tutela fiduciaria*.

Lætoria lex.

Cic. de offic. This law made by *Lætorius*, provided that there ſhould be overſeers appointed for thoſe which were diſtracted, or did prodigally waſt their patrimony. For as it appeareth by the common adage, *Ad Agnatos & Gentiles deducendus eſt*, they did account all prodigals mad men: they meaning no more by that, than we do by our Engliſh proverb, whence we ſay of a Spend-thrift, let him be begg'd for a fool. The reaſon of their adage was, becauſe if any were diſtracted, by the Roman law his wardſhip fell *Ad Agnatos & Gentiles*, that is, to the next of the kindred.

CAP. 15.
De Teſtamentis.

BEfore we deſcend unto the laws themſelves, we will explain thoſe three divers ſorts of Wills in uſe amongſt the Romans; namely, *Teſtamentum calatis comitiis*: which was ſo called, becauſe twice in the year in time of peace the Roman people aſſembled themſelves together, to this end and purpoſe, that if any would make his will, the whole people might bear witneſs thereunto: Theſe aſſemblies were termed *Calata comitia*. Secondly, *Teſtamentum in procinctu*, that is, when a ſouldier in time of war, ready to give battle, did call out three or four of his fellows, and in the audience of them did by word of mouth pronounce his laſt will and teſtament. Thirdly, *Teſtamentum per emancipationem familiæ*, that is, by making over his goods and poſſeſſions under

a

a feigned form of ſale, unto a ſecond party, called *Hæres fiduciarius & imaginarius*, i. e. an heir in truſt, who ſhould afterward reſign them unto the true and lawful heir: and this imaginary kind of ſale was performed with certain ſolemnities *circa æs & libram*, and alſo the ſale it ſelf was ſometimes called *Nexus*, as likewiſe *Emancipatio*. Hence was the will ſometimes called *Teſtamentum per æs & libram*, ſometimes *Teſtamentum per nexum*. For the proof of this which hath been delivered, touching the three ſorts of wills, I will refer the Reader to *m Sigonius*.

m Sig. de jur. Rom. l. 1. c. 12 Cic. Verr. 3.

Furia lex.

C. Furius Trib. pleb. made a law, that it ſhould not be lawful for any to give away in a way of legacy unto any, except to the kinſmen of him which manumiſed him, or ſome other certain perſons, *ſupra mille aſſes*, that is, above fifty ſhillings or thereabout, there going two *Aſſes & ſemis* to the making of one *Seſtertius*.

Voconia lex.

Q. Voconius Saxa Trib. pl. tulit legem, Ne qui cenſus eſſet, virginem neve mulierum ſupra quadrantem ſuorum bonorum hæredem inſtitueret, pluſve cuiquam legaret, quam ad hæredem, hæredeſve perveniret. Cic. Verr. 3.

Cenſus.] This word *Cenſus* doth ſometimes ſignifie all ſuch as have tendred the juſt valuation of their eſtate unto the Cenſors: and then *Incenſus* is oppoſite unto it; ſignifying ſuch an one as hath not rendred his eſtate or name to be regiſtred by the Cenſors. But in this place *Cenſus* is taken for ſuch a rich man whoſe eſtate was in the *Cenſors* book valued at one hundred thouſand *Seſterces*. (*Vid. Aſconium in Verrem.* 3.)

Supra quadrantem ſuorum bonorum.] That is, no woman ſhould be heir to more than one quarter of ſuch a rich mans goods. For the right conceiving of this, we muſt note with *n Latomus*, that the whole inheritance (were it never ſo great) was termed *As*, and that was divided into twelve parts, which the lawyers called *Unciæ*:

n Bart. Lat. in orat. pro Cecinna.

Duæ unciæ dicebantur Sextans, tres Quadrans, quatuor Triens, quinq; Quincunx, ſex Semiſſis, ſeptem Septunx, octo Beſſis, novem Dodrans, decem Decunx, undecem Deunx, Totum As, ut dictum eſt. Again, every *Uncia* was divided into ſix parts called *Sextulæ*: *Duæ ſextulæ Duellam, tres Semuncium faciunt.* So then according to the lawyers (as *o Alexander* obſerveth) if there were one heir alone inſtituted, he was termed *Hæres in Aſſem totum inſtitutus*: if otherwiſe there were many co-heirs, then was it according as the Teſtator did appoint. Some were *ex Deunce hæredes*, that is, heirs to eleven parts of his goods, there being but one part beſtowed from him: ſome were *hæredes ex quadrante*, that is, heirs to one quarter of his goods: others were *hæredes ex ſemuncia*, that is, they had the four and twentieth part: others were *ſextula aſperſi*, that is, they had the threeſcore and twelfth part of the whole *As*, that is, of the whole inheritance, be it more or leſs, *&c.* Here we muſt underſtand that there is great difference between theſe two phraſes, *Inſtitui hæres in totum Aſſem, & ex toto Aſſe.* For all thoſe which were nominated *Hæredes*, whether it were *ex Dodrante, Quadrante, vel Semuncia*, or howſoever, yet were they termed *Hæredes ex toto Aſſe*, that is, they were not *Legatarii*, ſuch as received legacies. Now none can be ſaid *In totum Aſſem inſtitui*, but he which is the alone and ſole heir unto the whole.

o Alex. Gen. dier. l. 1. c. 1.

CAP. 16.
De uſu-capione.

Atinia lex.

Cic. Ver. 3.

Atinius made a law, that the plea of preſcription or long poſſeſſion, ſhould not avail in things that had been ſtoln, but the intereſt which the right owner had in thoſe ſtoln goods, ſhould remain perpetual. The words of the law are theſe: *Quod ſurreptum eſt, ejus rei æterna auctoritas eſſet.* Whereby *auctoritas* is meant *jus dominii*,

p Sig. de jur. Rom. l. 1. c. 11.

dominii. This crime of theft, as likewiſe of uſury, was ſo odious unto the Romans, that whoſoever was found guilty thereof, was condemned *q Lege quadrupli*, that is, to pay four times as much: whence the informers againſt ſuch were termed *Quadruplatores.*

q F. Sylv. in Verrem. 1.

CAP. 17.
De Judicibus, & Judiciis.

Lex accuſatoria.

Tully mentioneth a law termed *Lex accuſatoria*, which in truth was no law, neither was there any Author thereof: but there was ſuch a received cuſtome amongſt the Romans, that the accuſer ſhould object againſt the party accuſed, not only the preſent crime then queſtioned, but all other ſcapes and faults committed long before, to the bettering of his matter: that at length this accuſatory cuſtome became in manner of a law, and ſo was called *Lex accuſatoria.* Vid. *Franc. Sylv. in orat. pro Mur.*

Cic. pro Mur.

r Their cuſtome alſo was to procure others to joyn with them in their accuſations; thoſe *ſ Tully* calleth *Subſcriptores*, becauſe they did ſubſcribe unto the accuſation.

r Alex. Gendier. l. 3. c. 5
ſ Cic. pro Mur.

Lex Servilia & Sempronia.

Whereas *Sempronius* had preferred a law, whereby he took away the authority of ſitting in Judgement from the Senators, and appropriated it to the Roman Gentlemen; *Q. Servilius Capio* being Conſul did afterward prefer another law, whereby the adminiſtration of judgement was divided between the Senators and the Gentlemen.

Curio in orat. pro Scaur.

Rupilia lex.

Rupilia lex vetabat diebus triginta ſortiri dicam.] Here we muſt note with *t Sigonius*, that this law was of force only in the Province of *Sicilia*: alſo that it is one thing *ſcribere dicam*, that is, to enter an action: another *ſortiri dicam*, that is, by lots to chooſe the Judges, which was thirty days after.

Cic. in Ver. 1
t Sig. de jur. prov. l. 2. c. 5.

Livia

Livia lex.

Cic. de orat. l. 3. Though by vertue of *Servilius* his law, the Senators were made capable of the office of a Judge, yet they were not thereby equally capable with the Roman Gentlemen: and therefore did *M. Livius Druſus* ordain, that the Judges ſhould be elected equally out of both Orders, namely, three hundred of the Senate, and three hundred out of the Gentry.

Plautia lex.

Cic. pro Cornel. *M. Plautius Sylvanus* preferred a law, that the number of Judges ſhould be choſen, not only out of the Roman Senators and Gentlemen, but out of the Populacy alſo, namely, out of every Tribe fifteen Judges.

Aurelia lex.

Cic. in Verr. ſæpe. *L. Aurelius Cotta* being *Prætor* made a law, that the Judges ſhould be choſen out of the Senators, the Gentlemen, and thoſe Martial treaſurers or Clerks of the Band called *Tribuni ærarii*.

Pompeia lex.

Cic. in Piſon. *Cn. Pompeius Magnus* being Conſul ordained that the Judges ſhould be elected out of the wealthieſt Centuries, tying the election notwithſtanding to thoſe three degrees of people, namely, Senators, Gentlemen, and Martial Treaſurers; alſo he addeth that the number of Judges to examine cauſes ſhould be ſeventy and five.

Julia lex.

Cic. Phil. 1. *C. Julius Cæſar* ordained that the election of Judges ſhould be out of the Senators and Gentlemen, only leaving out the Martial treaſurers; and this *Tully* calleth

Cic. Phil. 1. & 5. *legem Judiciariam Cæſaris.*

Antonia lex.

M. Antonius tulit legem, ut tertia Judicum decuria è Centurionibus, Anteſignanis, Alaudis, Manipularibus fieret.

Judicium decuriæ:] When the L. chief Juſtice had taken his oath, he choſe out ſome *ex certis ordinibus, non ex omni populo*, that is, out of ſuch degree and place as the law required, to ſit in judgement on thoſe caſes which were

were termed *cauſæ publicæ*: and theſe Judges he afterward divided into leſſer numbers called *Decuriæ*. *Vid. Sig. de jur. Rom. l. 2. c. 12.*

E Centurionibus.] *Centuriones* were Captains over an hundred footmen.

Anteſignanis.] This word *Anteſignanus* hath a double acception in the Roman hiſtories. Sometimes *Anteſignani* do ſignifie the third part of the Roman Army: for all thoſe ſouldiers that fought before the banners or enſigns, as they were called *Haſtati* in reſpect of their weapon, ſo were they called *Anteſignani* in reſpect of their enſigns before which they fought. The ſecond part of the Army, as they were called *Principes* in reſpect of their proweſs and valour, ſo were they called *Subſignani*, as fighting under the enſigns. The third part, as they were called *Triarii*, becauſe they fought in the third or rereward, ſo were they called *Poſtſignani*, as fighting behind the enſigns. Where we muſt not think, that thoſe which were called *Anteſignani* and *Subſignani*, were altogether deſtitute of enſigns among themſelves: (for every Maniple had his enſign) but the Eagle and other chief enſigns were carried by the *Subſignani*, and in reſpect had to them they had their names. And hence ariſeth the ſecond acception of this word, namely, that all thoſe ſouldiers of every Maniple, which ſtood in a front before their enſign were called *Anteſignani*, and thoſe were commonly the beſt ſouldiers in the company. See for the ſeveral proofs of this, *Liſp. milit. Rom. l. 2. dial. 3.*

Alaudis.] *Jul. Cæſar* preſſed a legion of ſouldiers out of *Gallia Tranſalpina*, all which afterward he made free of *Rome*. This legion he called *Legionem Alaudarum*, from the form of their helmets, which did reſemble the head of the Lark, called in French *Alauda*. *Barthol. Latomus in Phil. 1.*

Manipularibus.] Thoſe Captains which governed a Maniple of ſouldiers, were called *Manipulares*. *Fr. Maturantius in Phil. 1.*

Lex.

Lex Cincia de donis & muneribus.

M. Cincius being Protector of the Commons, *M. Cornelius Cethegus* and *P. Sempronius Tuditanus* being Consuls, preferred a law, that no man should receive a gift or bribe from his Client for pleading his cause. Of this we read in *Plautus*, and he calleth it *Legem muneralem*: also in *Tully de Senect.*

Cornelia lex.

Cic. pro Cluentio. *L Cornelius Sylla* preferred a law, that the chief Judge of the bench called *Judex Quæstiones*, should refer it unto the choice of the defendant, whether he would have judgement passed on him *Clam an Palam*, that is, (as *Sylvius* observeth) either by voices or by tables.

Memmonia lex.

Cic. in Ver. This law (made by *Memnius*) provided, that no action should be entred against those who were imployed abroad in business for the Common-wealth. An addition unto this law was, that whosoever should *calumniari*, that is, forge an accusation against another, a certain letter should be burnt in his forehead in token of infamy. This law is sometimes called *Lex Rhemnia*. Here we may with *u Fr. Silvius* observe the difference of these three phrases *Calumniari*, *Prævaricari* & *Tergiversari*. He which doth in his accusation forge faults never committed, is said *Calumniari*. He which undertaketh ones suit, and either will not urge reasons in the behalf of his Client, or answer the objections of his adversary when he is able, is said *Prævaricari*, that is, to play the false Proctor. He which doth desist in his accusation and let his suit fall, is said *Tergiversari*.

Cic. pro Sext. Roscio.

u F. Sylv. in orat. pro Cluentio.

Lex incerta de Nexu.

Cic. pro Mur. *In iis rebus quæ mancipi sunt, in periculis judicii præstare debet, qui senexu obligavit*, that is, if the buyer of any thing in that form of sale called *Nexus*, be troubled in law, the seller thereof must secure him, and save him harmless.

x F. Sylv. in orat. pro Mur. *Mancipi sunt*]x Those things were termed *res Mancipi*, which were alienated from the seller *Nexu*, that is, by such

ſuch a form of ſale as followeth. The form was thus: At the leaſt five Witneſſes, all Roman Citizens, and of full age, beſides one called *Libri-pens* (from holding of a pair of ballances) ſhould be preſent, and the chapman or buyer ſhould come with a certain braſs coyn in his hand, and ſay, (for example ſake, if it were a bond-ſlave to be ſold) *Hunc ego hominem ex jure Quiritium meum eſſe aio, iſq; mihi emptus eſt hoc are*, and forthwith ſtriking the ballance with the braſs coyn, he gave it to him that made the ſale. This kind of chaffering was termed *Nexus*, as we may ſuppoſe *à nectendo*, becauſe it did bind the ſeller to make good the ſale: *y* ſometimes it is called *Per es & libram venditio*, becauſe of the ceremonies uſed in it. *z* Now it is commonly called *Mancipatio* *a* *à manus capione*, from taking that which is ſold into ones hands or poſſeſſion: whence the word *Mancipatus*, and *Mancipium* are uſed to ſignifie a bond-ſlave that is in this manner ſold, though ſometimes *Mancipium* doth ſignifie the ſale it ſelf, whence *Cic.* uſeth this phraſe, *Lex Mancipii*, to ſignifie a clauſe or condition put in the ſale. All things ſold after this manner were termed *Res Mancipi*; *b* the word *Mancipi* being a noun undeclinable, as *Frugi*, *Cordi*, *Hujuſmodi*, &c. and from this form of ſale, the mortgaging of land for the payment of money may ſeem to be called *Mancipatio fiduciaria*; He which did thus receive the mortgage, or land in way of ſecurity, is ſaid *accipere fiduciam. Cic. orat. pro L. Flacco.* Upon which place ſaith *Lambinus*, in his annotations, *Accipere fiduciam, eſt fundum, aut aliam rem ſoli ſeu ut apellant immobilem, ab aliquo mancipare, ſeu accipere ea lege ut cum ille repetat ei remancipet.* We may conjecture the reaſon of theſe ballances, why they ſhould be uſed in this kind of bargaining, to be, becauſe in old time they did not bargain by paying coyned money, which was termed *Æs ſignatum*, but by paying a certain weight of money; whence ſuch money was termed *Æs grave*; and hence it is that metaphorically we tranſlate *pendo* and *rependo* to pay and repay.

y Sylv. ibid.

z Melanct. in orat. pro Mur.

a Camerar in orat pro Mur.

b Priſcian. lib. 3. vid. Fr. Sylv. in orat. pro Mur.

Alex. Gen. dier. l. 1. c. 15.

CAP. 18.
De Majestate.

Lex Varia.

Cic. pro Cornel. *Q Varius Trib. pl.* made a Law, that the *Prætores Quæsitores* should sit in judgement upon those, by whom the Allies or Associates had been moved to attempt war against the *Roman* people.

Julia Lex.

Cic. Phil. 1. *C. Jul. Cæsar* ordained, that such as were condemned of treason, or causing uproars in the Common-wealth, should be banished.

CAP. 19.
De Ambitu.

THose laws were termed *Leges de Ambitu*, which were made against indirect or unlawful courses used in canvasses for offices.

Fabia de ambitu.

This *Lex Fabia* restrained the number of those poor men, who because they were wont to follow up and down, and all the day to attend such as did stand for offices, were thence called *Sectatores*.

Acilia Calpurnia.

Cic. pro Mur. *M. Acilius Glabrio*, and *C. Calpurnius Piso* being Consuls, made a law, that such as were convinced of sinister and undirect means used in their canvasses, should be fined at a certain sum of money set on their heads, and they should be made both uncapable of bearing office, and uneligible into a *Senators* place.

Senatus consultum de Ambitu.

Cic. pro Mur. *M. Tullius Cic.* and *C. Antonius* being Consuls, a certain decree was made by the *Senate*, that if such as did either salute or attend upon those which stood for offices, were hired by any manner of reward, or if any publick prizes were occasioned to be plaid; or any publick

lick feasts made by them, they should be liable to the censure of *Calpurnius* his Law.

Tullia lex.

M. Tullius Cic. made a law, that no man standing for an office should cause any publick prize to be plaid, within two years that he either had stood, or should stand for an office, unless the day had formerly been appointed by some will. *Item*, he ordained, that *Senators* being found to have used unlawful means for the attaining of any office, should suffer ten years exilement. And the Commonalty offending in that point, should be punished with an heavier punishment then the law made by *Calpurnius* laid on them. An addition unto this was, that if any being cited to his answer in the Court of their undirect means, *Si morbum excusaret*, that is, If he did urge his sickness for his not appearance, then should he undergo a penalty. Cic. pro Sext.

Si morbum excusaret.] So that *Tully* here seemeth to cut off that liberty, which the twelve tables permitted in these words, *Si judex alterve ex litigatoribus, morbo sontico impediatur, judicii dies diffissus esto. i. e.* If either Judge, Plaintiff or Defendant were sick, they should *diffindere diem, id est, de proferre & in alind tempus rejicere*, prorogue the time of judgement. And unless some might think that by *morbus sonticus* was meant some strange disease, *Sigonius* inferreth, that every disease is termed *Sonticus*, which hindreth us in the performance of our business. *Sontes enim nocentes dicunt.* dSig. de jud. l. 1. c. 28.

Licinia de Sodaliciis.

M. Licinius Crassus being Consul, perswaded, *ut in Sodaliciis Judices ab accusatore ex tribubus ederentur.* Cic. pro Plancio.

Sodalitia.] In the latter times the *Romans* in their canvasses would gather together a certain company of their side or faction to follow them, terming them *Sodales*, and these *Sodales* would, as it were, by violence force the people to suffrage with them, whence the violence offered by them was termed *Sodalitia*, *Sig. de Jud. lib.* 2. c. 30.

Judices ab accusatore edcreutur ex tribubus.] We may read of three sorts of Judges among the *Romans*, or rather of three divers kinds of elections of their Judges. For either they were, *Lecti sortitione*, or which more may be seen in one of the laws following, or *Editione*, by nomination or naming them, the manner thereof being thus; That either the Plaintiffe should choose them all, and then were they called *Judices edititii*, or the Plaintiffe should choose one half, and the Defendant the other, and then were they called *Judices alterni. Melanthon in Cic. pro Muræn.*

CAP. 20.
De pecuniis repetundis.

First touching the word *Repetunda Sigonius* saith that such money tearmed *Pecuniæ repetundæ quæ possent repeti*, which might by the course of law be recovered. Namely, such money as any Magistrate, Judge, or publike Officer, did either in the Provinces, or in the City receive as a bribe, from the Allies and Associates, or from the *Roman* Citizens for the administration of Justice, or the execution of any publick duty: and this kind of bribe they tearmed *Pecunias repetundas, pecuniam ablatam, captam, ejectam, conciliatam, aversam* (*Cic. in Verinis*) But as it seemeth very probable these laws against bribery were first occasioned, for the ease and relief of the *Roman* Provinces and Allies, called in Latine *Socii*, who were much abused in this kind by the Prov. *Consuls*, *Prætors*, and *Quæstors*, &c. Whence *Tully* called this law against bribery, *Legem Socialem*. Here also may we note, *d Tully* useth this phrase, *Pecuniam occupare*, for *Fœnerari*, to put money to use. *Occupare pecuniam est collocare, inquit Nonius, id est, Fœnori dare. Vid. Lambin annot. in Cic. orat. pro L. Flacco.*

d Cic. in orat. pro. L. Flacco.

Junia lex.

M. Junius Pennus Trib. Pl. preferred a law that no such as were convinced of bribery, *Præter litis æstimationem exilium etiam damnato esset irrogatum.*

Litis

Litis æſtimationem.] Here we will conſider the difference of three phraſes, *Litis conteſtatio, Litis redemptio, & Litis æſtimatio.* e The firſt ſignifieth the producing of witneſſes when both ſides ſhall openly in the Court uſe the form of words, *Teſtes eſtote:* which was not done, *antequàm ſatisdationes facta eſſent*, before Sureties were put in, by the one, that he ſhould *Judicatum ſolvere*, pay that which he was condemned: by the other, that he would *rem ratam habere*, that is, ſtand to the Verdict or Sentence in the Court. The ſecond phraſe ſignifieth a compoſition or an argument agreed upon by both ſides between themſelves: f *Redimere lites eſt pactionem facere; qui enim paciſcitur, facit ut lis non ſit.* The third is when the party which is caſt in the Suit is adjudged to pay the money, or the worth of the goods called in queſtion, together with the coſt and damages in law unto his adverſary. g *Litem æſtimare eſt pecuniam, de qualis fuit, & propter quam condemnatus eſt rem, in ſummam redigere, quæ de bonis ejus redigatur.* h And *Æſtimare litem eſt, quod vulgò dicitur, Taxare litis expenſas.*

e Sig. de jur. l. 1. c. 27.

f Fr. Sylv. in orat. pro Q. Roſcio.

g Fr. Sylv. in orat. pro Cluentio.

h I. Tiſſin. in orat. pro Rabitio.

Acilia lex.

M. Acilius Glabrio made a law, that ſuch as were accuſed of bribery, *Neque ampliari, neque comperendinari poſſent*, that is, they muſt out of hand receive judgement.

For the right underſtanding of theſe two words [*Ampliari & Comperendinari*] we muſt conſider the ancient cuſtomes and ceremonies uſed by the *Romans* in handling their ſuits of law. Firſt, there was *In jus vocatio*, that is, a citation of one into the Court. Secondly, *poſtulatio*, that is, a requeſt put up unto the *Prætor*, that it might be lawfull for the Plaintiffe to Enter his Action againſt the Defendant; whence *Poſtulare aliquem de hoc vel illo crimine*, is to accuſe one of this or that crime. Thirdly, *Nominis delatio*, that is, the taking of the Defendants name into the Court-book: and this was termed, *Intendere actionem, vel Litem*; and *Diem alicui dicere*, that is, to Enter an Action againſt one. In the ſecond of theſe Acts, namely,

namely, when request was made by the Plaintiffe unto the *Prætor*, that he might Enter his Action against the Defendant; then the Plaintiffe did *Vadari reum*, that is, demand Sureties or Bale from the Defendant, that he would appear upon the day appointed by the *Prætor*. And the Plaintiffe did again, *Promittere vadimonium*, enter bond also for his own appearance upon the same day, which commonly was the third day following, called properly *Dies perendinus*, and sometimes *dies tertius* simply, as it appeareth by those capital letters. I. D. T. S. P. used to be written in their actions: which letters *i Probus* expoundeth thus; *In diem tertium, sive perendinum*. So that then properly, *Lis vel reus dicitur condemnari*, when the giving of Sentence is deferred till the third day. Moreover before the *Prætor* would suffer the Action to be entred, he would swear the Plaintiffe, that he did not accuse the Defendant *calumniandi causâ*, that is, falsely or maliciously, and this kind of swearing was termed *Calumniam jurare*, *calumniam de jurare*, and *In litem jurare*. Now if either party were absent from the Court upon the third day, except he were sick, he was Cast in his Suit, and the *Prætor* did grant an Execution called *Edictum peremptorium*, whereby he gave authority to his Adversary to seize upon his goods. Sometimes there were two or three Edicts in manner of Processe or Writs, before the *Edictum peremptorium*, could be obtained; sometimes it was granted at the first, and then was it *k* called *unum pro omnibus*. *l* Now if both parties came into the Court and did appear, then were they said *se sistere*: so that this word *sisto* amongst the Lawyers did signifie to shew ones self in the Court. Upon the third day the *Prætor* also with the whole Bench of Judges did meet, and the *Judex Quæstionis* (whom *Rosinus* maketh a distinct Officer differing from the *Prætor*) did cause all the *Select* Judges to pull out certain lots, out of an urne or pitcher brought thither for that purpose, and those Judges upon whom the lot fell were to sit in judgement;

i Sig. de jud. l. 1. c. 27.

k Sig. ejusd. l. c. 28.

l Sig. ejusd. l. cap. 21.

ment: This was called *Sortitio Judicum.* Now if either the Plaintiffe or Defendant did ſuſpect any of thoſe, that they would be partial, then might he except againſt them, and that was called *Judicum rejectio:* Then the *Judex queſtionis* would in manner aforeſaid chooſe other Judges in their places, and that was called *ſubſortitio.* Which being ended, thoſe Judges which were thus choſen, received every one of them from the *Prætor* three tables, the one having this letter A written in it, betokening *Abſolution:* whence *Tully* calleth it *literam ſalutarem:* The other having this letter C written in it, betokening *Condemnation:* The third having theſe two letters N L betokening *Non liquet.* After the receipt of the tables, then did the *Prætor mittere vel dimittere judices in conſilium,* that is, ſent them to caſt their tables into the urnes, there being three urnes or little coffers purpoſely provided; the one for thoſe Judges which were choſen out of the *Senators,* the other for thoſe that were choſen out of the Gentlemen, the third for thoſe which were choſen out of the *Martial* Treaſurers. Now if they did caſt the firſt ſort of tables into the urnes, then the *Prætor* pronounced the Defendant abſolved; if the ſecond, then he pronounced him condemned; if the third, then he pronounced *Amplius cognoſcendum,* that they muſt have longer time to enquire: And this is properly termed *Ampliatio,* a Reprieve, and in ſuch manner it is ſaid, *quod lis vel reus dicitur Ampliari.* The proofs for this manner of proceeding in law may be collected out of *Roſinus lib. antiq. 9. cap. 19, 20, & 24.* and out of *Sigonius* according to the marginal quotations. The like cuſtome, ſeemeth to have been received alſo among the *Grecians,* who had three letters of their Alphabet, anſwerable to thoſe among the *Romans;* ⊙ was *damnationis ſymbolum,* which occaſioned that of *Perſius,*

Et potis es nigrum vitio præfigere Theta.

T a token of abſolution, A of ampliation. *Vid. Eraſm. Adag.* ⊙ *præfigere.* Some as it appeareth by *Eraſm.* give a reaſon of ⊙ becauſe it reſembleth the heart of man

wounded

wounded in the midst with a Dart, others because it is the first letter of θανατος, signifying death according to that,

Infelix multis theta est mihi littera felix.
Si θανατον scribit, scribit & illa Jovi.

Cic. pro Cluentio.

Cornelius Sylla being *Dictator* ordained a law that the chief Judge called *Judex Quæstionis* with the whole Bench of Judges should sit upon life and death on such as had killed a man; on such as had with an evil intent set any place on fire: on such as should walk with any weapon either to kill or rob a man; on such as had either made, bought, sold, had, or given any poyson, thereby to kill a man; on any Magistrate, whosoever should cause any conventicle or secret assemblies, or should give their consent to the suborning of any man to accuse another falsely, that thereby he being innocent might be oppressed and condemned by publique judgement. Moreover *De ejus capite quæritо, &c.* that is, Let them sit upon life and death on that man, which shall bear false witness, that another might be condemned to death; on that Magistrate or chief Judge, which shall take a bribe to condemn another to death.

Parricidium.] This word doth properly signifie only a murthering of ones parents or kinsfolk, but in *Numa Pompilius* his time it signified as much as *homicidium*, that is any man-slaughter whatsoever.

CAP. 21.

Lex. 12. tabularum de vindiciis.

SI qui jure manum conserunt, utrique superstitibus præsentibus vindiciis sumunto.

Si qui in jure.] Here we must note that the custome among the *Romans* in old time was, that as often as any controversie did arise touching the possession of an house, a field, or any such like thing, the *Prætor* did go unto the house, field, or the thing questioned, being accompanied

nied thither with the Plaintiff and the Defendant, together with others whom the law required to be preſent as witneſſes. This place, whereſoever it were, though in the open field, during the time that the *Prætor* ſate there to give judgement, was termed in Latine *Jus*, in Engliſh a *Court*. Where in the preſence of the *Prætor* and the witneſs, the Plaintiff and Defendant did *munum conſerere*, that is, as *m Camerarius* ſuppoſeth, argue and diſpute the caſe *pro* and *con* in a ſolemn form of words preſcribed them by the law. For this phraſe is borrowed by the Lawyers from the art military, where ſouldiers are ſaid *manum vel manu conſerere*, when they fight hand to hand, [*utriq; ſuperſtitibus præſentibus*] that is, let both parties in the preſence of witneſſes (ſo *n Feſtus* expoundeth *ſuperſtites* [*Vindicias ſumunto*] that is, let them take a turfe of the ground: for ſo *o Sigonius* expoundeth *Vindiciæ*: though properly (as he obſerveth) it ſignifieth the poſſeſſion of a thing, rather then the thing poſſeſſed. This turfe being taken up, was carried to the *Prætor*, and judgement was given upon that; as upon the whole. I do preſume that in others caſes, as in taking the poſſeſſion of an houſe, &c. ſome other thing in manner of the turfe was preſented unto the *Prætor*, upon which, as upon the whole he gave judgement. In proceſs of time, the *Prætor*, by reaſon of the tumult of other imployments, not finding convenient leiſure to review every particular ground, or houſe called in queſtion, *p* it was ordained contrary to the twelve tables, that the Plaintiff in ſuch caſes ſhould come into the Court, and challenge the Defendant in this form of words, *ex jure manu conſertum te voco*, that is, I challenge thee to go out of the Court into the field, to uſe one towards the other that ſolemn form of words which the law injoyneth. Then did the Defendant either yield the poſſeſſion of the ground, or elſe did reply, *Unde tu me ex jure manu conſertum vocaſti, inde ibi ego te revoco.* Then did they both, taking witneſſes with them, without the company of the *Prætor*,

m I. Camerar. pro L. Muræn.

n Roſin. ant. l. 8. c. 26.

o Sig. de jud. l. 1. c. 21. Vindiciam ferre eſt ſententia decretoque rem obtinere dicebat Vindicias judex ferebat, Vindicias qui rem obtinebat. Turneb. adv. l. 13. 27.

p A. Gel noct. Attic. l. 20. c. 10.

intro viam, that is, go into the ground bringing back a turfe thereof, upon the which (as in manner shown) the *Prætor* gave judgement at their return.

For the better understanding of this that hath been spoken in the explanation of this law, we must note, that the action termed *Vindicatio*, was twofold: either the suit for the possession of a thing, or the suit for the Lordship, or right owning thereof. The possession of any thing was recovered, either by true and real violence, or by a seeming violence: this seeming violence was twofold, either it was *manus consertio*, which was shown immediately before; or *moribus deductio*, that is a customary leading the unlawful *possessor* out of the ground, thereby to enter possession. *Vis simulata, altera à lege, altera emanavit à moribus*, saith [q] *Sigon.* The first of these did arise from the *Roman* Law, the other from a custome among the *Romans*; the first of these is to be seen in *Tully*, his Oration *pro Murena*, the other *pro Cœcinna*: to these *Sigonius* addeth a third kind of seeming violence; which how justly he hath termed a violence, I shall leave to the indifferent judgement of the impartial Reader. The right of the Lordship, or owning any thing, was sued for in this manner: The Plaintiff did question with the Defendant thus; first, *an auctor esset*? that is, whether he had not covertly made away the possession of the thing thereby to frustrate the action? Secondly, *an spoponderet*? that is, whether he would put in a gage of money into the Court, which he would forfeit if he were cast; which being done, the Plaintiff did also upon the demand of the Defendant put in a gage of money to be forfeited if he prevailed not in his suit. This gage of money was termed [r] *sacramentum*; and in this sense, *Tully pro Milone*, saith, *Injustis, vindiciis & sacramentum alienos fundos petunt*, that is, they sue for other mens ground with unjust actions and gages of money. Thirdly, *An satisdaret*? that is, whether he would put in surety, that during the tryal in law, the ground or house called in question should not be impaired? The solemn

q Dionys. lib. 11. c. 21.

r Sigon. de jud. l. 1. c. 21.

ſolemn form of words uſed in the firſt demand, is thus to be ſeen in ſ *Tully*, *Quando in jure te conſpicio, poſtula anne ſies auctor* ? If the Defendant held his peace, then was he adjudged to pay all coſts and damage ; if he profeſſed himſelf the preſent *poſſeſſor*, then did the Paintiff proceed in manner as he ſhould for the poſſeſſion thereof ; if he denied it, then did the *Prætor* ſay unto the Plaintiff *Quando negat, ſacramento quærito* : Thereupon ſaith the Plaintiff to the Defendant, *Quando negas, te ſacramento quinquagenario provoco : ſpondesne teſoluturum quinquaginta aſſes, ſi auctor ſis* ? to whom the Defendant replied, *ſpondeo quinquaginta aſſes, ſi auctor ſim : Tu vero ſpondeſne idem, ni ſim* ? The Plaintiff anſwered, *Ego quoq; ſpondeo.* Now in this kind of ſtipulation, the Plaintiff was ſaid *ſponſione & ſacramento provocare, ſacramento rogare, quærere, & ſtipulari*, that is, to challenge one to pawn a ſum of mony for the tryal of a ſuit in law. The Defendant was ſaid, *contendere ex provocatione, contendere ſacramento, & reſtipulari*, that is, to be ſued in ſuch manner. This mony was termed *ſacramentum*, t becauſe when it was forfeited, it was beſtowed *in rebus ſacris & divinis*. Touching the laſt interrogatory, I read no ſet form of words, but by the word *ſatisdatio*, the intelligent Reader may conject, that it did ſomewhat ſymbolize with our Engliſh cuſtom of putting in bail. u This putting in of bail was twofold. The one was *ſatisdare judicatum ſolvi*, to bind himſelf to pay what ſhould be adjudged. The ſecond was *ſatisdare remratam habere*, to become bound that he would ſtand to the verdict and judgement of the Court. The firſt of theſe bonds was required to be performed by the Defendant : the ſecond by the Plaintiff's Proctor or Atturney. But if the action were an action of debt, then the Proctors alone became bound ; the Plaintiffs Proctor, that he would ſtand to the judgement ; the Defendants Proctor, that the debt adjudged ſhould be paid.

ſ Cic. orat. pro Mur. & pro Gœcin.

t Sig. de jud. l. 1. c. 21.

u Sig. de. jud. l. 1. c. 27.

LIB. IV.

Rites and Customes observed by the Romans *in their Wars.*

De militia.

TOuching the Art *Military* used among the Romans, it will not be impertinent to consider first how War was proclaimed, and peace established by them; then to march on to the description of their bands, or companies, where we may first observe the office of their chief Captain, and their subordinate leaders, together with the several Wards, into which the universal army was divided. After this we may descend unto the diversity of punishments used toward Captives, and likewise toward refractorious and disobedient souldiers: Adding a *Corollary* or *Period* to our whole discourse, the several rewards, which the L. General with his Souldiers after the performance of certain atchievements received.

CAP.

CAP. I.

De ritu, quem Romani, observarunt vel fœdus ferientes vel bellum inferentes; & de triplici ratione conscribendi milites.

WE may remember that it hath been already shewn, that both the proclaiming of war and peace belonged unto a certain order of Roman Priests, called *Fœciales*, who by reason of their office, I Englished *Heraulds at arms*. The rites and ceremonies which they used, when they proclaimed peace, were as followeth, *viz.* One of those Heraulds having his commission from the State (after that both sides had agreed upon the truce and league now to be concluded) took up a stone in his hand, *a* using this solemn form of words: *Si recte & sine dolo malo hoc fœdus atq; hoc jusjurandum facio, dii mihi cuncta felicia præstent; sin aliter aut ago aut cogito (cæteris omnibus salvis) in propriis patriis, in propriis legibus, in propriis laribus, in propriis templis, in propriis sepulchris solus ego peream, ut hic lapis è manibus decidet*, and therewithal he cast the stone out of his hand: which manner of oath was termed *Jurare Jovem lapidem*, or *per Jovem lapidem*, that is, as it hath been rendred by *Festus* to swear by *Jupiter*, holding a stone in ones hand: *b* Many say that he did cast that stone at an hog or porker brought thither purposely, adding these words to the former; *Si prior populus Romanus defexit publico consilio, tum ille Diespiter, populum Rom. sic ferito, ut ego hunc porcum hodie feriam*: alluding to which custome *Virgil* saith,

Et cæsa jungebant fœdera porca.

The manner of denouncing War hath been already shewn. The act of service in War was termed *Merere sub hoc vel illo duce*, that is, to serve in War under this or that Captain; and whatsoever souldier was discharged of his service, as having served out his whole time, he was called *miles emeritus*, and by *c Tully* such a one is said *stipendia*

a Polyb. vid. Rosin. antiq. l. 10. c. 2.

b Sig. de jure Ita. l. 1. c. 1.

c Orat. pro lege Manil.

stipendia confeciſſe. *d Servius* hath obſerved that the Roman ſouldiers were preſſed three manner of wayes: *per Sacramentum, Conjurationem, & Evocationem.* But *e Lipſius* cenſureth him for the amiſs explanation of the laſt member. Therefore the indifferent Reader ſhall give me leave to borrow the termes from *Servius,*] but the explanation of them partly from *Servius*, and partly from *Lipſius* in the places now quoted. Ordinarily ſouldiers at their preſs, did each ſeverally take their oath not to forſake their Captain or Country; and this oath was called *Sacramentum militare*; the words thereof are rendred by *f Polybius* thus; *Obtemperaturus ſum, & facturus quicquid mandabitur ab imperatoribus, juxta vires.*; and thoſe were termed *Milites per ſacramentum.g* This ſort of ſouldiers were upon appointed dayes, as it were of publick Muſter, elected and choſen by the military *Tribunes* under the Conſuls; the aſſignment of the day did chiefly belong unto the Conſuls, at which time if any ſouldier withdrew himſelf, and did not appear, he was ſeverely puniſhed, ſometimes by impriſonment, ſometimes by confiſcation of his goods, ſometimes by being ſold for a bondſlave. Upon extraordinary occaſions (as when tumults or commotions did cauſe any ſuſpition of imminent danger) the chief leaders of the ſouldiers did go unto the Capitol, and bring forth two banners or flags, the one red, called therefore *Vexillum Roſeum*, unto which the footmen repaired; the other skie-coloured, called therefore *Caruleum*, which the horſemen followed. The reaſon why the horſemens banner was skie-coloured, is rendred thus, becauſe it did moſt reſemble the colour of the Sea, which colour they deemed moſt acceptable to *Neptune*, who was both the God of the Sea, and the firſt Author of Horſes. Now becauſe the ſudden danger would not yield ſo much time that they might ſeverally be ſworn, therefore did they take their oath in common altogether; only one chief ſouldier throughout a whole legion, took his oath at large, and in expreſs words, the

d Serv. l 2. & 7. Æn.

e Lipſp. de milit. Rom. l. 1. dial. 3.

f Vid. Lipſ. de milit. Rom. l. 1. dial 6.

g Liſp. de Rom. l. 1. dial. 4.

Liſp de mil. 1. dial.

the reſt followed in order one by one, ſaying, Καὶγὼ ὁ αὐτός, that is, that he ſwore the ſame as the firſt. If the Tribune diſtruſted his ſouldiers fidelity, then would he ſwear them every one ſeverally in termes at large, and thence were they called *Milites per conjurationem*; as likewiſe *Milites ſubitarii*, in reſpect of their ſudden preſs: The third member may alſo be admitted, if we with * *Lipſius* underſtand it in its true ſenſe; namely for thoſe ſouldiers, who by the L. General were added unto the Body of their Army, he having authority to call out ſuch other ſouldiers, who for their long ſervice were diſcharged from giving in their names at a muſter: And theſe are generally by all authors termed *Milites evocati* and *Lipſius* deemeth them all one with thoſe whom *Servius* called *Milites per evocationem*. The ſouldiers being thus preſſed, if they purpoſed to make war upon their enemies, then did the L. General ſummon them to prepare themſelves by a ſound of Trumpets: and this was termed *Claſſicum canè, à calando*, which ſignifieth to call. Which being done, a Scarlet banner was hanged out at the L. General his Paviſion, from which ceremony I think that that common adage did firſt ariſe, *Conferre ſignis & Collatis ſignis pugnare*, to joyn battle. Immediately upon this they did *Garritum tollere*, make a great ſhout or noiſe with their voices, to the greater terror of their enemies, and that the noiſe might be the greater, they did *Arma concutere*, ruſtle together with their armour, and claſh their ſwords. Theſe four ceremonies are to be ſeen more at large in ‖ *Lipſius*. Unto which we may add the fifth, obſerved by ‡ *Fr. Sylvius*; namely, that at the removing of their Camp they did *conclamare vaſa*, give a great ſhout or cry, in token that the ſouldiers ſhould truſs up their bagg and baggage: and hence it is that † *Plautus* uſeth this phraſe, *Colligatis vaſis*, to ſignifie as much as *paratè* or *expeditè*. Now that they might be the readier for the battle, they did gird (as I ſuppoſe) their ſouldiers coats cloſe unto them; and a ſouldier thus girt,

* Lipſ. de mil. Rom. l. 1. dial. 8.

‖ Lib. 4. demil. Rom. dial. 11. & 12.

‡ In. ep. Viror. illuſt. l. 4. ep. 1.

† Plaut. in Pſeudulo.

girt, was called *Cinctulum*, that is (saith *n Pighius*) *Cinctu tutus*. *o Inde distinctos ignavos, & militiæ minime aptos putarunt, Precinctos vero fortes, & strenuos.* Hence also is that proverbial speech, *In præcinctu stare*, or *vivere*, to be in a readiness continually:

Non pudet ad morem discincti vivere Natte ! Pers. Sat. 3.

n Pigh. in sua præf. ad l. 1. septim.
o Alex. Gen. dier. l. 1. c. 20.

CAP. 2.

De Legione, Auxiliis, & Legionis partibus.

THe Roman Forces were in old time divided into two several parts; namely, *in Legiones & Auxilia*, into Legions and Auxiliary Bands. The Auxiliary Bands were such forces as the neighbour and confederate Countries did send unto the Romans. The Legions were taken out of the body of the Romans, *p Legio à deligendo dicta est*, from the choice and selecting of souldiers. *q Romulus* is said to have been the first author of these Legions, making every Legion to contain 3000 footmen, and three hundred horsemen, *r* one thousand footmen, and one hundred horsemen being taking out of each national Tribe. Afterward it was augmented by *Romulus* himself into four thousand footmen, *s* whence it was called *Quadrata legio*. And in process of time a Legion increased unto the number of six thousand: which number it seldom or never exceeded (as it appeareth by *Sigon.* in the place now quoted.) Now *t* none could be ordinarily registred for a souldier until the seventeenth year of his age, *u* at which his first admission he was termed *Tyro*, a fresh-water souldier: and hence figuratively *Tyrocinium* hath not been translated only the first entrance into war, but also the initiation, or first entrance into any art or science whatsoever. After he had served many years, then was he termed *Veteranus* an old beaten souldier. *x* The Roman legion was divided *in peditis & equites*, there being commonly for every thousand footmen an hundred horsemen. *Pedites distributi erant in Cohortes.*

p Plut. in Romulo.
q Rosin. ant. l. 10. c. 4.
r Sig. de jur. Rom. l. 1. c. 15.
s Sigon. ibid.
t Alex. Gen. dier. l. 1. c. 20.
u Pancir. l. rerum deperdit. c. de habit. & vest. veter.
x Sig. de jur. Rom. l. 1. c. 15.

Cohortes

Cohortes in Manipulos; Manipuli in Centurias: Equites diſtributi erant in Turmas, Turmæ in Decurias. The word *Cohors* doth ſignifie that part of ground, which is commonly incloſed before the gate of an houſe, which from the ſame word we call a Court: and *z Varro* giveth this reaſon of the *Metaphor.* As in a Farm-houſe (ſaith he) many out-buildings joyned together make one incloſure; ſo *Cohors* conſiſteth of ſeveral maniples joyned together in one body. It is manifeſt (ſaith *a Aloxan.*) that the Romans in antient time did very ſeldom, yea never (except in great neceſſity) inroll into their univerſal army above four legions: and in an ordinary legion, which he termed *Legione juſtam*, ten *Cohortes*: every *Cohors* containing three maniples, every maniple two Centuries, every Century an hundred ſouldiers, whence *b* they from *Centum* were called *Centuria* a Century. Theſe Centuries were ſometimes divided into leſſer numbers call'd *Contubernia*; every *Contubernium* containing ten ſouldiers beſides their Captain, *c* which was called *Decanus*, and *Caput contubernii.* Where we muſt obſerve, that *Contubernium* doth ſignifie as well the pavilion, or lodging it ſelf, as the ſouldiers lodging therein, and it may be ſo called *quaſi contabernium*, from *Taberna* ſignifying any ſleight lodging made of boards. Thoſe that ruled over a thouſand footmen we may in Engliſh call *Serjeants-major*: they called them *Tribuni militum.* Thoſe that governed over the Centuries were called by them *Centuriones*, by us in Engliſh *Centurions*, and they had their inferior officers under them which were called *Tergiductores*, or *Extremi agminis ductores.* *d* Their office was to overſee and look unto thoſe of the camp which were ſick, who commonly came behind the army *quaſi extremum agmen, & tergum aciei.* The horſemen were divided into ſeveral troops called *Turmæ*; every *Turma* containing thirty horſemen. Again, every *Turma* was ſubdivided into three leſſer companies called *Decuriæ*; every *Decuria* containing ten horſemen: whence their Captain was called *Decurio*, and the Captains over the greater troops, namely over the ſeveral

y Edmunds in his obſerv. upon Cæſars Comment. lib. 2. c. 3.
z Varro lib. 3. de re ruſtica.
a Alex. Gen. dier. l. 1.
b Varro vid. Roſin. ant. Rom. l. 10. c. 5.
c Roſin. ibid.
d Veger. vid. Roſin. ant. Rom. l. 10. c. 7.

wings of the horsemen were called *Equitum præfecti*. Now the chief Governour over the universal army was called commonly *Imperator*; we in English call him a L. General. His Lieutenant or L. Deputy was called *Legatus*, who in old time was called *non tam ad imperandum, quam ad consulendum Imperatori*. This word *Imperator* in the Roman histories hath a threefold acception; first, it is taken for him, who by commission from the State hath the managing of an Army, being the same that *Prætor* was in antient time; and in this sense it hath affinity with the office of our L. General. Secondly, for such a L. General who by his Proweſs having put one thousand of his enemies to the sword, was both by his souldiers saluted, and by the Senate styled by the name of *Imperator*. But if he had slain less than one thousand, he was not thought worthy of this solemn salutation by that name. Lastly, it was taken for a Soveraign Prince, King, or Monarch, in which sense it was the *Prænomen* of all the Roman Emperors, from *Julius Cæsar* forward. Now because the souldiers in a legion must of necessity differ much in estate, age, and experience, some being wealthier, elder, and of more experience then others; hence was it requisite also that there should be a distinction of places in their Armies according to the desert and worth of each several person. We are therefore likewise to understand that the Consuls every year made a general muster: at which time the military Tribunes chose out the youngest and poorest of all the rest, and called them by the name of *Velites*. Their place in regard of other souldiers was base and dishonourable, not only because they fought afar off, and were lightly armed; but also because they were commonly exposed to their enemies as forlorn hopes. According to *Lipsius* these *Velites* were commonly placed either *In Fronte*, *Viis*, or *Cornibus*. 1. In the front of the Army. Secondly, in the distances, or spaces between the several maniples. 3. *In Cornibus*, that is, in the wings of the battle; not that the

e Lipſ. de milit. Rom. l. 2. dial. 10.

f Bart. Lat. in Phil. orat. 14.

g Lipſ de mil. Rom. l. 1. dial 3.

h Lipſ. de mil. Rom. l. 4. dial. 3.

he wings at any time conſiſted of thoſe *Velites*, for that was the *Socii* and Auxillary forces; but either the ſpaces in the wings were filled by thoſe *Velites*, or elſe they might obtain a promiſcuous place amongſt thoſe forrainers. Notwithſtanding they did like ſcouts run to and fro caſting out their darts (as occaſion was offered) and ſo retire: whence when a man doth leap from one thing to another in his talk, we ſay he doth *Agere velitatim*. Haveing choſen out a competent number of theſe ſcouts, they proceeded to the choice of them which they called *Haſtati*, that is, Pikemen: foraſmuch as they fought with a kind of javelling which the Romans called *Haſta*. Theſe Pikemen fought in the firſt part, or fore-front of the main army. The third choice which they made was of the ſtrongeſt and higheſt-bodyed men, who for the prime of their age were called *Principes*: and hence was the ſecond place or ward in the main army called *Principia*, according to *i Thraſo* his ſpeech, *Ego ero poſt Principia*, that is, I will follow the *Principes*; thereby chuſing to himſelf the beſt and ſafeſt place. The laſt ſort of ſouldiers, which ſtood in the third place or ward, were called *Triarii*. They were of all the moſt approved, and the very laſt help or refuge: ſo that if they failed, all was loſt: and hence ariſeth that form of ſpeech. *Ad Triarios ventum eſt*, *k* whereby we ſignifie that a thing is come to the laſt puſh. As I ſuppoſe, the weapon wherewith theſe *Triarii* fought, was a dart, with Iron faſtned at the end of it, called in Latine *Pilum*. The reaſons of this my conjecture are theſe: 1. Becauſe the firſt Century of theſe *Triarii* was called *Primum pilum*, and their Centurion *primo pilus*, and *primipulus*, and *Primus centurio*, becauſe he was the chief Centurion in a whole legion, as having the charge of the chief banner called the Eagle; *l* whence *Aquila* is ſometimes uſed to ſignifie *Primo pilatum*, the office and place of the *Primopilus*. The ſecond Century was called *Secundum pilum*, and their Centurion *Secundipilus*, &c. Secondly, they called the *Principes*, which marched in the

i Teren. Eun. Act. 4. Scen. 7.

k Alex. Gen. dier. l. 5. c. 15.

l Lipſ. de mil. Rom. l. 2. dial. 1.

battle immediately before these *Triarii*, *Antepilanos*: which argueth that those souldiers which followed next, should be the *Milites pilanis*, and by consequence their weapon should be that kind of dart which they called *pilum*. Their manner of embattling was divers. Sometimes they would make a winged army, so that the main body thereof should be in the middle, and on each side a lesser company: the main body we in English call the *Vauntguard*, and the two lesser companies we call *Wings*; as likewise in Latine they call them *Alas aciei, & dextrum vel sinistrum eorum*. *m Pancirol.* calleth them *Vexillationes*, because there fought no more in either wing than belonged to one banner called in Latine *vexillum*. The governors of these wings he calls *Alarum præfectos*. Sometimes they embattled, so that the forefront of the army being small, it was inlarged bigger and bigger backward, in manner of a triangle: By *n Lipsius* it is demonstrated unto us under the form of the Greek letter Δ. He in the same place calleth it *caput porcinum quia velut fodit, & ruit invadendo*. Commonly it is called, *Cuneus militum*, the *Metaphor* being borrowed not only from the resemblance it had with a wedg, but that also from the use of a wedg: for they never embattled in that form, unless it was to break through their enemies, the piercing angle being thick compacted with targets. Sometimes they did in a quite contrary manner, inlarge their army in the forefront, making it to end in an angle: and *o* this they called *forfex*, and *forceps militum*. Sometimes their form of embattling was circular, and then it was called *Orbis, vel globus militum*. The banner or flag was properly called *Vexillum*, being a diminutive of *Velum*. It was also called *p Bandum*: whence we do at this day call so many souldiers, as do fight *sub eodem bando*, a band of souldiers. as *Romulus* called those that fought *sub eodem manipulo fœni* (an handfull of hay being used at that time in stead of a flag) *Manipulum militum*: *Ovid*,

Percita suspensos portabat longa maniplos,
Unde maniplaris nomina miles habet.

Suidas is plain, βάνδον καλοῦσι ῥωμαῖοι τὸ σημεῖον τοῦ ἐν πολέμῳ,

that

m Pancir. in notit. orient. & occident. imper. c. 32.

n Lipsius de mil. Rom. l. 4. dial. 7.

o Lipsius ibid.

p Festus vid. Pancir. in not. orient. & occident. imper. c. 32.

*Suid. in voce βάνδον.

that is, The Romans called their military ensign a *Band*: hence others have used βανδοφορος to signifie as much as *Signifer*, an Antient bearer.

CAP. 3.

De oppugnatione urbis, & iis quæ ad oppugnationem requiruntur.

IF the siege of a town seemed difficult and hard to compass, then did the Romans use certain means of policy, for the better effecting thereof. They environed the town with a broad and deep ditch, adding thereunto a rampire, fortified with many Castles and Fortresses; whereby they both kept the town from any forrain succour, and withall secured themselves from sallies, and other stratagems. This rampire did extend it self towards the walls of the City; so that by making (as it were) a great hill, they might overtop the City, and fight with the greater advantage. Now that this greater heap of earth might become firm, and well able to support the buildings to be erected upon it, they did cast in much timber, and stones amongst the earth; and this heap of earth, stones, and timber when it was reared, was properly called *Agger*, whence cometh both the Latine verb *Exaggarare*, and the english of *Exaggerate*, that is, to amplifie or encrease a matter. The stakes, posts and trees, which were rammed in about this bulwark, or rampire, to uphold the earth, were sometimes called *q Cervi*, because of their forked and sharp tops, but more properly *r Valli*, & *Valla*. The distance or space between each stake, was called *Intervallum*; though now *Intervallum* doth signifie not only such a distance, but any distance either of space or time, as it appeareth by that of *Tully*, *ſ Intervallo locorum, & temporum disjuncti*. Sometimes *Vallus* doth signifie a pole or stake, whereunto vines are tied, according to that received adage which we use when a special friend forsaketh one, *Vallus vitem decepit*. From the first signification it is, that

Vallum

q Lipſ. Pol. l. 2. dial. 2.
r Serv. Æn. l. 10.
ſ Cic. ep. fam. l. 1. ep. 7.

Vallum doth often ſignifie the incloſure, or hedging in of trees or ſtakes, wherewith the bulwark is upheld; alluding whereunto *t* *A. Gellius* tranſlates ἔρκος ὀδόντων *Vallum dentium.* The meanes of their defence, whileſt they were making their rampire, was a certain engine or ordnance of war *u* made of planks and hurdles running upon wheels, under which they might reſt ſecure from all ſtones and darts caſt from the walls of the City: it was called *Vinea.* A ſecond engine was *Muſculus.* The matter whereof it was made I have not read; but the uſe of it was, that under it the ſouldiers might approach unto the walls of the City, and undermine them. Thus much *x* *Lipſius* ſeemeth to infer, when he rendreth the reaſon of the name: *Muſculus ideo dictus, quia inſtar ejus animalculi foderent ſub eo terram.* A third meanes of their defence was *Militaris teſtudo.* This word *teſtudo* in the Art Military, had a double acception, both being borrowed from the reſemblance of the Tortoiſe-ſhell, which is the true and genuine ſignification of this word. In the firſt acception *Teſtudo* *y* doth ſignifie a warlike engine or fence made with boards covered over with raw hides, which ſerved againſt fire and ſtones caſt at the ſouldiers; under this they might ſafely aſſail the walls. *z* In the ſecond acception it ſignified a Target-fence, which was a cloſe holding together of Targets over head like a vault or roof, wherewith the footmen did defend themſelves from the thick ſhot of arrowes, or ſlinging of ſtones. Their rampire or countermure being finiſhed, they uſed certain great timber Towers made upon wheels to run to and fro, which they called *Turres ambulatoria*, moveable turrets. Theſe Towers had many ſtories one over the other, *a* wherein they carried ladders and caſting bridges, thereby to ſcale the walls. The engines hitherto have been defenſive, ſuch wherewith the Romans defended themſelves in their ſiege: others there were offenſive, wherewith they did aſſail the City; and of thoſe the chief were *Baliſta ſive Catapulta, Scorpius ſive Onager, Aries, &.*

Mulleoli.

t A. Gel. noct. Attic. l. 1 15.

u Roſin ant. Rom. l. 10. 16.

x Lipſ. Polior. l. 1. dial 9.

y Roſin. ant. l. 10. c. 11.

z Stad. in Flo: l. 4. c. 1 0.

a Roſin. ant. Rom. l. 10. c 16

Mulleoli. The firſt of theſe engins, as it was called *Baliſta* ἀπὸ τῦ βάλλειν, from darting, or caſting forth any thing, *b* ſo it was in old time called *Catapulta*, ἀπὸ τῆς πάλτης, which ſignifieth a ſhaft or dart; though it cannot be denied, but that *Pelta* doth alſo ſignifie a kind of ſhield made in the form of an half moon, according to that of *Virg. Æn. l. 1.*

b Lipſ. pol. l. 2 dial. 2.

Ducit Amazonidum lunatis agmina peltis
Pentheſilea furens——

The form thereof followeth, tranſlated word for word out of *c Marcellinus*. [Between two planks there is ſet in frame, and faſt joyned a ſtrong and big Iron, reaching out in length after the manner of a good great rule; out of the round body whereof, which is artificially wrought, there lieth forth farther out a four ſquare beam, made hollow with a direct paſſage in manner of a narrow trough, tied faſt with many cords of ſinews twiſted one within the other, and thereunto are joyned two wooden skrews: near unto one of which ſtandeth the cunning Baliſter, and ſubtilly putteth into the hollow paſſage of the beam a wooden ſhaft, with a big head glewed faſt to it. This done, on both ſides two luſty young men do bend the engine by turning about certain wheels: When the top of the head is drawn to the uttermoſt end of the cords, the ſhaft being carried forth of the Baliſta, by the inward force thereof, it flieth out of ſight. That the reader may receive the more light in the underſtanding of this obſcure deſcription, I have added the very words of *Marcellinus*. *Ferrum inter axiculos duos firmum compaginatur & vaſtum, in modum regulæ majoris extentum; cujus ex volumine teretis, quod in medio ars polita componit, quadratus eminet ſtylus extenſius recto canalis anguſti meatu cavatus, & hac multiplici chorda nervorum tortilium illigatus, eiq; cochleæ duo lignea conjunguntur aptiſſimè, quarum prope unam adſiſtit artifex contemplabilis, & ſubtiliter adponit in temonis cavamine ſagittam ligneam, ſpiculo majore conglutinatam, hocq; facto hinc inde validi juvenes verſant agiliter rotabilem flexum. Quum ad extremitatem nervorum acumen venerit*

c Am. Marc. l. 23. c. 3.

rit ſummum, percita interna pulſu à baliſta ex oculis evolat. In reſpect of its uſe we may Engliſh it a *Croſs-bow*; but it was much bigger, and of a different form. The *Scorpion*, which now they call *Onager*, is deſcribed by *Marcellinus* in the ſame place thus. Two Oaken or Elm beames were hewn out, and ſomewhat bended, ſo that they ſeemed to bunch out in backs; and theſe in manner of a * ſaw engine are tied faſt together, being bored through with wide holes, through which (by the meanes of thoſe holes) ſtrong cords are tied, keeping in the whole frame that it ſtart not aſunder: * From between thoſe bunches another wooden beam reaching forth overthwart, and in a manner of a wain-beam erected up, is tyed with ſuch devices unto certain ropes, that it may be pulled up higher, or let down lower at ones pleaſure; and at the top thereof certain iron hooks are faſtned, from which hooks there hanged down a certain ſling either of Iron or Tow; under which erected beam, there lieth a great peice of hair-cloath, full of ſmall chaff, tyed faſt with cords, and placed upon a bank of turfs, or a heap of bricks. When therefore it cometh to the point of skirmiſh, a round ſtone being put into the ſling, four young men on one ſide looſing the beames, into which the ropes are incorporated, do draw back the erected beam unto the hook. Thus at length the maſter of the engine ſtanding in ſome high place giving a mighty ſtroak with a hammer (and as I ſuppoſe upon the cord, whereunto the erected beam was faſtned with his hook) ſetteth open the rails that contain the whole work, inſomuch that this erected beam being now at liberty with that quick ſtroak, and hitting againſt the ſoft hair-cloath, it hurleth out the ſtone, that will batter whatſoever is in the way. And it is called *Tormentum, quod ex eo omnis explicatio torquebatur.* It is alſo called *Scorpio*, becauſe when the long beam or pillar is erected, it hath a ſharp top, in manner of a ſting. The modern time hath impoſed unto it the name of *Onager*, that is a wild Aſs, becauſe that wild Aſſes, when they

* Machinæ Serratoriæ.

*Ab hac medietate reſtium. Here we muſt note, that this ſignification of teſtes is borrowed from the Anatomiſts, which do call certain eminent parts behind φαλλοειδεῖς Teſtes. Vid. Fuceſ. Inſtit. med. l. 1. Sec. 5.

they are courſed by hunters, fling back ſtones with their heels a far off, ſo that oftentimes they pierce the breaſts of them that follow them. The Latine word is made from the Greek ὄνος, *i.e. Aſinus & ἀγρός, rus vel ager.* Now if any ask me, why that ſackcloth, or aſhes was interpoſed, the reaſon is rendred by *Marcellinus*, in two lines, which I purpoſely did not tranſlate in their place, becauſe I would continue the ſenſe without ſuch a long *Parentheſis*. The reaſon is there delivered thus; becauſe the violence and force of the erected beam recoiling, after it had been by the ſtroak diſcharged, was ſuch that it would ſhake in pieces the ſtrongeſt walls, except there were ſome ſoft thing interpoſed, whereby the forcible ſtrength of the recoil might be by degrees ſlaked. The *Aries* or Ram, is deſcribed alſo by *Marcellinus* in the ſame place [The Ram was a great tree or beam, *like unto a maſt of a Ship*, having a piece of iron, in manner of a Rams head, faſtned at the end thereof, wherewith they did demoliſh and batter down the walls of a City. It was hung unto a beam, which lay acroſs over a couple of pillars, and hanging thus equally ballanced, it was by force of men pulled backward, and then recoyled upon the walls] The Rams which *Titus* uſed at the ſiege of *Hieruſalem*, ran upon wheels: which kind of Rams are deſcribed by *Joſephus*. There be, ſaith he, other manner of engines, as an iron Ram upon four wheels bound with iron, and faſtened with iron nails, to this they make four feet anſwerable to the bigneſs of the beam, and every foot hath his ſeveral wheel, and when they will batter the wall, certain men firſt pulling it back, they recoil it by the help of four wooden leavers put in the hinder part thereof for that purpoſe. The head of this Ram hath no hornes, but is blunt, made of the ſtrongeſt kind of iron, with a wonderful thick neck. They have alſo on both ſides of the Ram a pentiſe of wood for the ſafeguard of thoſe that recoil it, *Joſephus Ben. Gorion de bello Judaico.* In lieu of theſe Rams another engine was found out, cal'd *Helepolis*, *ab inuſitato*

Ελω, that is, *capio*, and πολις, that is, *civitas*. The form of it is to be seen also in *Marcell.* ibid. [There was (saith he) a *Testudo*, or vaulted frame made, strengthned with very long pieces of Timber: it was covered over with Oxe hides, and green wicker hurdles: the upper part or convex sur-face thereof was overlaid with mudde, to the end that it might keep off the fall of fire and casting of weapons. Now there were fastned in the front of it certain *Cuspides trisulcæ*, that is, iron pikes with three edges very massie, in manner of the thunderbolts, which Painters and Poets exhibit unto us. This great Engine, the Soldiers ruling within, with diverse wheeles and ropes, with main force they thrust it against the walls.] [*Malleoli* (saith the same *Marcellinus*) were certain darts fashioned on this manner: there was an arrow made of a cane, betwixt the head and the neck whereof was fastned an iron full of clefts; which arrow, like unto a womans distaff, on which linnen is spinned, was finely made hollow within the belly, yet open in many places: In the belly it received fire with fuell to feed upon. And thus being gently discharged out of a weak bow (for with an over strong shooting the fire was extinguished) if it took fast hold on any place, it burned the same, and water being cast thereon, the fire increased, neither was there any means to quench it, but by casting dust on it.] Now if they could not prevail by these Engines called *Machinæ*, then did they make certain passages under ground, which they called *Cuniculi* from *Cuniculus*, signifying a cony-berry: insomuch that these two phrases are opposite, *Machinis*, and *Cuniculis oppugnare*, as it appeareth by that of *d Plutarch*, *Cæsar non jam cuniculis, sed machinis tollit rempublicam*, that is, He doth not now covertly, but with open violence assault the Commonweal.

d Plutarch in vit. C. Cæs.

CAP.

CAP. 4.

De pœnis in hostes de victos.

ALbeit, after the Victory, the *Romans* inflicted diverse degrees of punishment, according to the malice found in an Enemy: yet were they always compassionate, and (as Histories testifie) more exorable then any other nation. The punishments which we find them to have used towards a conquered nation are these. Either they punished them by death, or sold them *sub corona*, or dismissed them *sub jugum*, or merced them in taking away their territories, or made them tributary States. *c* An Enemy was said to be sold *sub corona*, when he being placed in the market-place, a Crown was put upon his head in token of such a sale: or therefore certain Captives were said to be sold *sub corona*, because at such times they were environed about with Soldiers to keep them together, and this circle of Soldiers, as likewise of all other companies, is called *Corona*. When they dismissed any *sub jugum*, *f* they erected two spears, with a third lying a cross in manner of a Gallows: then they caused them being disarmed, and their belt taken away, to pass under in token of bondage. When their territories were taken from them, they were commonly conferred upon old beaten Soldiers, in way of remuneration for their faithfull service. This transplantation was termed *Coloniæ deductio*; and the place ever after *Romana Colonia*, that is, a Roman Colonie. At which times they chose out every tenth man, *viz.* such as were able, and of best sufficiency to make and establish a publick councell, *g* whom they named *Decuriones*. Whence we may observe, that *Decurio* is not always taken for a Captain over ten horsemen, but sometimes it is used to signifie an *Alderman* or chiefe Burgess in a *Roman* Colony. These Colonies were of two sorts, some called *Coloniæ Latinæ*: others *Italicæ*. The Latine Colonies had *Jus Civitatis, suffragii & Magistratus capiendi*,

c A Gel. 7. c 4.

f Stad in Flor. lib. 1. c. 12.

g Sig. de jure, Ital. l. 2. c. 4.

di, si in sua Colonia magistratum gessissent. Italicis autem, Jus civitatis & suffragii nullum erat, immunes tamen erant: nec tributum aut stipendium pendebant, ut provinciæ solebant. Turneb. adverſ. l. 1. *c.* 11. Divers times the Romans would be content after the conqueſt to grant to their enemies a peacable injoying of their lands & poſſeſſions, conditionally that they would yeild all faithful allegiance unto the L. Deputy, whomſoever the *Senate* of *Rome* ſhould place over them. The L. Deputy was either ſtiled bythe name of a *Prætor*, a *Proconſul*, or a *præfectus*. Thoſe places where the two firſt ſorts of Govenours did rule, were termed *Provinciæ*; the other from the governor was termed *Præfectura*. Where we muſt obſerve that this word *Provincia* hath a threefold acception. Firſt it is taken for a Countrey, which by the force and power of armes, is ſubdued to the Roman Empire, and governed by ſome Roman Deputy ſent from the Senate; and this is the proper and primitive ſignification thereof, it being ſo called, *h Quod populus Rom. eam provicit, id eſt, ante vicit*. Secondly, it is taken for any region or Country, where the L. Gen. or chief Captain over a Roman Army doth manage War againſt any nation by commiſſion from the Senate. Laſtly, it ſignifieth any publick function, or adminiſtration of office, yea any private duty, charge, or task, either undertaken or impoſed; according to that of *i Terence Provinciam cepiſti durum*, that is, thou haſt undertaken an hard task. Now the Tribute to be paid, was either certain or uncertain. The certain was properly called *Tributum, vel Stipendium*, and thoſe who paid it were termed *Tributarii ſive Stipendiarii*, and this tribute was of two ſorts, either ordinary, ſuch as was required from every houſe yearly, even in the time of peace; or extraordinary, ſuch as was leve'ld by a law or decree of the Senate towards unexpected charges. The uncertain tribute *k* properly called *Vectigal*, was either impoſt-money, ſuch as was collected in haven towns for the tranſportation of Merchants wares, and that was called from

h Pigh. lib. Tyrannif.

i Terent. in Phor.

k Sig. de jur. Rom. l. c. 16.

Portui

Portus, *l* *Portorium*, or from *Porta* *Portarium*, and the receivers thereof *Portiores*. The wars after the impost-money had been paid, were sealed by the *Publicans*, with a certain kind of tempered chalk: and this is that which *Cicero* understandeth by *Asiatica creta*. *Orat. pro Flacco*: or tithe corn, namely the tenth part of the grain; and that was cal'd from *Decem*, *Decuma*, and the receivers thereof *Decumani*, though *Decumanus* when it is an adjective, signifieth as much as *Maximus*, according to that of *Ovid. l. 1. de trist.*

Qui venit hic fluctus, fluctus supereminet omnes;
Posterior nono est, undecimo q3 prior.

l Stadius in Flor. l. 1. c. 13.

The reason of this signification is *m* supposed to be, because in *Arithmetick* amongst simple numbers the tenth is the greatest: or lastly, that money which was paid by certain herdsmen for pasturing their cattle in the Romans fields and forrest: This kind of tribute was called *Scriptura*, and the pastures *Agri Scripturarii*; because (as *n* *Festus* saith) the Bayliff or receiver of this money, called *Pecuarius*, did *Scribendo conficere rationes*, that is, keep his account by writing: Where we must note, first, that all these kinds of Tributes were not only required in Provinces, or Countries subdued, but throughout *Italy*, even in *Rome* it self. Secondly, though each collector of these Tributes was distinguished by a peculiar name; yet by a general name they were all called *o* *Publicani*, in as much as they did take to rent these publick tributes. The chief of them which entred into bond, as the principle takers or farmers of these tributes, *Tully* calleth *Mancipes*. The others, which were entred into the same bond as sureties, were termed *Prædes*. Many times the Romans did bestow the freedome of their City upon forein Countries; and the degrees of freedom were proportioned accordingly as the Countries were. Some they honoured with the name of Roman Citizens, but excluded them from the right of suffraging, leaving them also to be governed by their own Laws and Magistrates.

m Fr. Sylv. in viror. illust. ep. 2. l. 1.

n Sig. de jur. Rom. l. c. 4.

o Cic. de Arusp. respons. & alias sæpe.

This ſtate they called a *Municipal* ſtate, in Latin *Municipium*, becauſe they were *Muneris hujus honorarii participes*. p By *Manus honorarium*, in this place is understood nothing, but the bare Title of a *Roman* Citizen, whereby they were priviledged to fight in a Legion, as free Denizons; not in an auxiliary band, as the aſſociates. Now the firſt that ever obtained this Municipal ſtate, were the *Cerites*, who for preſerving the holy things of *Rome* in the time of the War againſt the *Gaules*, were rewarded with the Freedom of the City, but without power of ſuffraging: * From whence it is, that thoſe Tables wherein the *Cenſors* inrolled ſuch as were by them deprived of their voices, were called *Cerites Tabulæ*; *Horace* calleth ſuch a Table *Ceritem ceram*, for the reaſon ſhewn before. But we muſt withal obſerve, that ſome Municipal Towns have either by deſert or inſtant ſuit obtained the liberty of ſuffraging alſo, which occaſioneth that received diſtinction, that there was *Municipium ſine ſuffragio*, and *Municipium cum ſuffragio*. Other countries which could not be admitted into the freedom of the City, have obtained, and that not without ſpecial and deſerved reſpects, to be aſſociates and confederates unto the ſtate of *Rome*. The inhabitants of ſuch countries were ſomtimes called *Socii*, ſomtimes *Amici*, ſomtimes *Latini nominis ſocii*, *&c.* The King or Prince of ſuch a country did ſtile himſelf *Amicus & Socius Senat. & Pop. Rom.* Here we muſt obſerve a difference between *Pactio* and *Fœdus*, both ſignifying a kind of league. That truce which in time of war is concluded upon, and accepted of both ſides for a certain q limited ſpace of time, is properly called *Pactio*; we commonly call it *Induciæ*, and it differed from *Fœdus*: r firſt becauſe that *Fœdus* is a perpetual truce or league, ſecondly becauſe it was neceſſary, that one of thoſe *Heralds at Armes*, called *Fœciales*, ſhould by a ſolemn Proclamation confirm this league called *Fœdus*, neither of which conditions was abſolutely requiſite in their truce termed *Pactio*.

p A Gel. noct. Attic. lib. 16. cap. 13.

* A Gel. ibid.

q Sig. de jure Ital. l. 1. cap. 1.

r Sigon. ibid.

CAP.

CAP. 5.

Multæ militares, quibus milites Romani ob delicta afficiebantur.

TOuching the punishments that the *Roman* L. General used towards his own Soldiers, when they were faulty, they were commonly proportion'd unto the fault committed. Sometimes they were easie, of which sort were also those punishments which did only brand the Soldiers with disgrace: other times they were heavier, such as did hurt and afflict the body. To the first sort belonged these: First, *Ignominiosa dimissio*, that is, a shameful discharging of a Soldier, when he is with disgrace removed from the Army. Secondly, *Fraudatio stipendii*, that is, a stopping of their pay: and such Soldiers which suffered this kind of mulct, were said to be *ære diruti*, because *Æs illud dirue batur in fiscum, non in militis sacculum.* Thirdly, *Censio hastaria*, whereby the Soldier was injoyned to resign, and give up his spear: for as those which had atchieved any noble act, were for their greater honour *Hasta pura donati*; so others for their greater disgrace were inforced to resign up their spear. Fourthly, the whole *Cohors*, which had lost their banners, were compelled to eat nothing but barly bread, being deprived of their allowance in wheat: and every Centurion in that *Cohors* had his Soldiers belt or girdle taken from him, which was no less disgrace amongst them, then it is now amongst us, that a Knight of our order of the Garter, should be deprived of his Garter. Fifthly, for petty faults they made them to stand bare-footed before the L. General his Pavillion, with long Poles of ten foot length in their hands: and sometimes in the sight of the other Soldiers to walk up and down with turfs on their necks. In the last of these they seemed to imitate their city discipline, whereby malefactors were injoynd to take a certain beam resembling a fork upon their shoulders, and so to carry it round about the town. It hath some affinity with our carting of *Queans* here in *England*. In the first we have

f Rosin. ant. l. 10. c. 25.

no

no custome that doth more simbolize, then the standing in a white sheet in the open view of a congregation. The last of their lesser punishments, was the opening of a vein or letting them blood in one of their armes: *t* which kind of punishment was used towards those alone, which (as they conceited, through the abundance of their hot blood) were too adventurous and bold. The heavier kinds of punishment were these; 1. *Virgis, vel fustè cædi*, to be beaten with rods, or staves and cudgels. None were ordinarily beaten with cudgels, but those who had not discharged their office, in the sending about that table, called *Tessera*, wherein the watchword was written; or that had forsaken their place, where they were appoynted to keep watch; or those who had stollen any thing from out of the Camp, or born false witnesse against their fellowes, or abused their bodies by women: or lastly, that had been punished thrice for the same fault: those that were in this manner cudgelled, were often killed in the place, but if they escaped alive, they went to live in perpetual exilement. The ceremony used in this kind of cudgelling was, that the *u* Knight Martial should lightly touch the party to be punished with a club, which being done, all the souldiers did beat him with staves and cudgels, whence we may say of one that deserveth a good cudgelling in *x* Tully his phrase, *Fustuarium meriter*. *Polib.* calleth it Χυλοκοπίαν. *Vid Lips. de milit. Rom. lib.* 5. *dial.* 18. If a Roman souldier had broken his rank by going out of order, then *Virgis cædebatur*, that is, he was scourged with rods. Sometimes the Knight Martial upon just occasion would cause them to be sold for bondslaves, to be beheaded, to be hang'd. All these punishments were personal or particular; there remaineth one which was general, namely when the fault was general, as in their uproars, conspiracies, *&c.* Upon such occasions the souldiers were called together, and every tenth man upon whom the lot fell was punished with that kind of cudgelling above spoken of; all the other escaped either

t Alex. Gen. dier. l. 2. c. 13.

u Trib. milit.

x Cic. orat. Phil. 3.

there without puniſhment, or with very little. The puniſhment it ſelf was termed *Decimatio Legionis*, and the reaſon of this kind of puniſhment is rendered by *y Tully*, *ut metus viz. ad omnes, pœna ad paucos perveniret*. Sometimes ſuch was the clemency of the L. General, that he would puniſh only the twentieth, nay the hundreth man, and then it was called *viceſimatio, vel centeſimatio legionis*.

y Cic. pro Cluent.

CAP. 6.

De donis militaribus ob rem fortiter geſtam.

COncerning the rewards which were beſtowed in war, ſome were by the Senate conferred upon the L. General: others were by the L. General conferred upon his ſouldiers. Thoſe honours which the L. General received were three, Firſt, *Nomen Imperatoris*, of which before. Secondly, *Supplicatio*, that is a ſolemn proceſſion continued for many dayes together, ſometimes more, ſometimes fewer: all which dayes the Roman people did obſerve as holy-dayes, offering up daily prayers and Sacrifices to the Gods in the behalf of their L. Gen. The cuſtome being that after ſome notable victory the ſouldiers having ſaluted their chief Captain (whom I call their L. General) by the name of *Imperator*, then would he ſend letters unto the Senate, dight with Laurel, wherein he required both that name to be confirmed, and approved by them, as likewiſe that they would *Decernere Supplicationes*, that is, appoint ſuch ſolemn ſupplicationes. Thirdly, they honoured him alſo at his coming home with a triumph: *Tryumphus vel major, vel minor erat*, ſaith *Alexander*. The leſſer kind of triumph was properly called *Ovatio z ab ove*, from a ſheep, which in this time of his triumph, was led before him, and afterward ſacrificed by him, as alſo in the greater triumph (called properly *Triumphus*) the L. General ſacrificed a Bull: it differeth from the greater triumph, firſt, in the acclamation; for in the leſſer triumph the ſouldiers following did as it were redouble this letter O, and ſome are of opinion that it was there-

z Salmuth. in Paneir. l. rerum de perd. c. de triumph.

fore called *Ovatio*. In the greater triumph the *souldiers* followed, crying, *Io triumphe, Io triumphe*: an example
a Ode. 2. l. 4. whereof may be seen in *a Horace*, where he describeth the triumph of *Bacchus*, the first Author of this greater
b Salmuth. in Pancir. l. rerum de perd. cap. de triumph. tryumph; from whose *b* name also divers Authors do derive this word *Triumphus*, he being in Greek called Θρίαμβος, which by a little change is made *Triumphus*. Secondly, they differed, because in the greater Triumph the L. Gen. did wear a garment of State, called by some
c Alex. Gen. dier. l. 6. c. 17. *Trabea c* by others *Triumphalis, Picta vel Anrata vestis*; likewise a garland of Laurel, riding in a chariot, the *Senators* themselves, with the best of the Romans, meeting him, his souldiers with their coronets, their chains, and other rewards, following after: but in the lesser triumph the L. General did wear a plain Purple Gown, without any Gold imbroidering, and a garland of mirtle,
d Dion. Hal. lib. 5. *d* commonly going on foot, sometimes permitted to ride on a horse; the Gentlemen and commonalty of *Rome* alone, without the *Senators*, did meet him. Moreover, for a perpetual memory of this their triumph, in some publick place certain trophies were erected. *e Trophæum monumentum dixere, nunc marmoreum modo æneum, cum*
e Alex. Gen. dier. l. 1. c. 2. *inscriptione & titulis ævo perpetuo duraturis, f Dictum est*
f Serv. Æn. l. 10. ἀπὸ τῆς τροπῆς, *id est, à conversione*, from making the enemies to retire and turn back. Sometimes there were statues, colums, and arches built, in token of triumph. These arches, though commonly they were known by the name of *Arcus triumphales*, yet sometimes they are
g Fr. Sylv. in orat. Cic. pro Cn. Plancio. called *g Fornices*, whence is it that *Tully* calleth *Fabians* triumphal arch *Fabianum fornicem*. If it so hapned, that the Roman General himself, personally, did take away any spoiles from the chief Captain of the enemies, then did he hang them up in a temple consecrated to *Jupiter*
h Alex. Gen. dier. l. 1. c. 14. *Feretrius*; who was so called, because *h* as the Romans conceited, without the special assistance of *Jupiter*, *Dux ducem ferire non poterat*: these spoyles had the name of *Optima spolia*, that is, Royal spoyles. The rewards bestowed

ed upon the souldiers were divers: either places of offices, as the place of a Centurion, of a *Præfectus*, a *Decurio*, *&c.* or their pay was increased, the spoils distributed amongst them: or lastly, they received certain gifts termed *Dona militaria.* In antient times those souldiers which had best deserved, received a certain measure of corn, called by them *Adorea*; *i* and hence it is that *Adorea* is now used to signifie such laud and praise as is due unto a souldier. But after ages, for the better encouraging of the souldiers, have found out more honourable rewards, of which *k* these were the chiefest; *Armilla*, that is, a bracelet for the hand-wrest; *Torquis*, a chain to were about their neck; *Phalaræ*, horse-trappings; *Hasta pura*, that is, a spear, having no iron at the end of it (it is sometimes called *l Hasta donatica*, and *Hasta graminea*,) Lastly, *Coronæ*, crowns of which *Aul. Gel. lib. 5. cap. 6.* observeth these to have been the chief: 1. *Corona triumphalis*, which in old time was made of Laurel, but afterwards of Gold, and thence it was called *Corona aurea*: it was sent by the Senate unto the L. General, in honour of his triumph; Secondly, *Corona obsidionalis*, which was given by the souldiers unto the General when they were freed from a siege; it was made of grass growing in that place where they were besieged, whence it had the name also of *Corona graminea.* Now the reason why they made this crown of grass growing in the place where they were besieged, was thereby to yield up their right in that place unto their Captain: for by that ceremony, as *m Pliny* observeth, they did *Terra & ipsa altrice humo & humatione etiam cedere.* And hence it is, that in races, and the like masteries, he that was overcome, did gather some of the grass of that place, and gave it unto the conqueror, as a token that he did acknowledg himself conquered; *n* this is the reason of that Adage, *Herbam dare*, that is, to yield the victory. Thirdly, *Corona civica*, which was bestowed only upon him which had saved a Citizens life, *o* though in process of time it was also bestowed upon the L. Gen. if he spared a Roman Citizen when he had power to kill him.

i Alex. Gen. dier. l. c. 18.

k Sig. de jur. Rom. c. 15.

l Rosin. ant. l. 10. c. 17.

m Plin. l. 22. c. 4.

n Salmuth. in Panc. l. return de perd. c. de coronis.

o Pigh. l. Tyrannis.

him: It was commonly made of Oak; whence it was called *Corona quercea*. And this I take to be the reason why in *Ovids* time the Emperor had alwayes standing before his gates an Oak tree in the midst of two Laurels, as an emblem denoting two worthy vertues required in all Emperors and Princes: first, such whereby the enemy might be conquered: secondly, such whereby Citizens might be saved. Unto this *Ovid* seemeth to allude, speaking of the Laurel tree,

p Ovid. Met. l. Fab. 9.

p Postibus Augustis eadem fidissima custos
Ante fores stabis, mediumq; tuebere quercum.

q Dion. Hal. lib. 10.

Fourthly, *Corona Muralis*. *q* He only was honoured with this, which did first scale the walls, and enter first into the enemies City: and hence this crown was put upon the circlet, or top, like unto the battlements. Fifthly, *Corona Castrensis*, This the L. Gen. bestowed on him which first entred into the enemies tents: it did bear in itthe resemblance of a bulwark, or at least of the mound wherewith the bulwark was strengthned: which mound was called in Latine *Vallum*, and thence the crown it self was often called *Vallaris corona*. Sixthly, *Corona navalis*, with which he was honoured, which first entred into the enemies ship in a battle upon Sea: it was portrayed with many ship-beakes called in Latine *Rostra*, *r* whence the crown it self was often called *Corona Rostrata*. That Roman *Hercules Siccius Dentatus* obtained almost all those several rewards, and that each many times. Lastly, *Corona ovalis*, it was made of Mirtle tree, the L. General used it in the lesser kind of triumphs, called *Ovationes*, from whence the Coronet it self was named *Ovalis*. It was then bestowed, when the Herald had committed some error in denouncing war; or when the enemies conquered were of mean rank and place, as Servants, or Pirats; or else if the victory were gotten without bloodshed, or great hazzard, the enemies yielding without resistance. *In quibus impulvereis & incruentis victoriis, aptam esse Veneris frondem crediderunt, quod non Martius, sed quasi Venereus quidam triumphus foret.*

r Pigh. l. Tyrannif.

s A. Gel. noct. Attic. l. 2. c. 11.

FINIS.

INDEX RERUM ET VERBORUM maxime insignium.

A Litera in tabula, scripta, quid significet, 131
A. litera salutaris 241
Abdicere quid? 166
Abire Flaminio 53
Acca Laurentia quæ & ei cur sacra instituta? 45
Accensi qui? 164
Accipere fiduciam 235
Accumbendi ratio apud Romanos qualis? 118
Acerra quid 75
Actiaci ludi 61
Actiones redhibitoriæ quæ? 175
Actus in fabula nec plures, nec paucio-res esse debent, quam quinque 176
Addicere quid significet? *ibid.*
Addicti bona quæ? *ibid.*
Addicti servi qui? 32, 166
Adjicialis cœna quæ? 63
Adorea quid? 269
Adscriptus civis quis? 211
Adversaria 133
Adulterium quid? 153
Advocatus fisci 178
Ædes sacra 21
Ædes Saturni 2
Ædiles unde dicti? 175
Ædiles Cereales qui, & unde dicti, 176
Ædiles Curules qui, & unde dicti? 175
Ædiles plebei qui? *ibid.*
Æra Corybantia, & unde dicta? 64
Ærarii qui 184
Ærarium unde dictum 13
Ærarium quomodo differebat à fisco 178
Ærarium militare 13, 177
Ærarium sanctius 13
Ære diruti qui, & unde dicti? 265
Æs { Grave / signatum } 235
circa *Æs* & libram 229
per *Æs* libram venditio 239
Æsculapii insula 24
Æstimo unde? 223
quid? 97
Agere ad populum 212
cum populo *ibid.*
Agere de plano quid? 204
Agere forum quid 15
Agere pro tribunali quid 204
Agere velitatim 253
Agger proprie quid 157
ad *Agnatos* & gentiles deducendus est Prov. 228
Agonales Salii 55
Agonalis mons 5
Agones qui & unde dicti 67
Agones capitolini 90
Agones Quinquennales 91
Agrariæ leges, *vid.* leges
Agri Scriptuarii 263
Alæ aciei 254
Alarum præfecti *ibid.*
Alba toga quomodo differabat à candida 248
Albi dies qui 128
Albo-galerus 53
Altare quid, & unde dict. 331
Ante præcincti pro expeditis dicti 147
Ambarvales hostiæ 46
Ambulatoria cœna 122
Amici pop. Rom. 164
Amicus & Socius Sen. & Pop. Rom. *ibid.*
Amphitheatrum quid 18
Amphora Attica 214
Amphora Italica *ibid.*
Amphora mellaria 60
Ampliari quid 239, 240, 241.
Amplitio quid *ibid*
An { auctor esset / sponderet / satisdaret } 244, 245.

Ancile cœlo delapſum 55
Andabatæ & Andabatarum more 101
Argues pinge duos, id eſt, duos genios 38
Anguſticlavia 151
Anguſticlavii *ibid.*
Annalis lex 215
Anniverſariæ feriæ quæ 129
Annonæ præfectus 176
Annus lex 165
Annulari pede 200
Annulus in nuptiis dari ſolitus 69
Annus à Romulo inſtitutus 124
quaſi annulus *ibid.*
Biſſextiles 126
Julianus 125
magnus & vertens 126
Antecœnium quid & unde dict. 117
Antepilani qui 63
Anteſignani qui 134
Antiquo quid ſignificet 289
In *Aniliam* damnari 201
Apex quid 52
Apex pileorum genus 56
Apollinares ludi qui 85
Aqua & igni interdicere 184
Aquila pro primopilatu 253
Ara quid & unde dicta 22
Aræ quare gramineæ dictæ *ibid.*
Ad te tanquam ad *Aram* confugimus 4
Arca coſtodiæ genus 192
Archigallus quid & unde dict. 60
Arcus triumphalis 268
Arena 18
in *Areneam* deſcendere *ibid.*
Arenarii qui dicti *ibid.*
Aries machinæ genus, & ejus deſcriptio 259
Arietem emiſit. prov. 56
Arma concutere 249
Armamaxæ 82
Armilla donum militare 269
Armis verſis pugnare 97
Arvales fratres qui, quot & unde dicti 55
Auſpices unde dicti 46
As 208,225,230
Aſiatica Creta 263
Aſylum 3
Ad te tanquam ad *Aſilum* confugimus 4
Atellanæ unde dictæ 102
Atri dies qui 128
Auctio quid 221
Auctor quis 47
Auctorati quales gladiatores 96
Auctoritas, jus dominii 230
Augurandi ceremonia 47
Auguratus ſemel alicui datus, eidem dum vixerat, adimi non potuit. *ibid.*
Augures unde dicti, & eorum numerus initio & deinceps quantus 46
Auguria imperativa 48
Auguria Oblativa *ibid.*
Auguria proſpera & adverſa quando dicta *ibid.*
Augurum Collegium 47
Auguſtales ludi 94
Auguſtus, Octavius Cæſar dictus 167
Avibus bonis & malis quid 46
Avis ſiniſtra quid ſignificet 49
Aurigarum factiones 88
Aurum Coronarium, quid, & unde dictum 219
Auſpicari rem quid 46
Auſpices quaſi Aviſpices *ibid.*
Auſpicia bonis, malis *ibid.*
Auſpicium coactum quid, & unde dictum 49
Auxilia quæ 250
Auxiliare quid 49

B

B. F. in Senatus conſultis quid ſignificet 158
Baliſta quid, & unde dicta 357
A band of ſouldiers, cur ſic dict. 254.
Βανδοφόρ&, *ibid.*
Bandum *ibid.*
Barritum tollere 230
Baſilica pars templi quæ 19

Basilica Pauli quæ 9,10
Basilicus jactus in ludo tessario 101
Bellare cœstu quid 89
Bellum quomodo indici solitum? 56
Berecynthia unde dicta 60
Bessis quid 220
Bestiarii qui 198
Biclinium unde dictum 118
Bissextilis annus qui 126
Bissextus dies quis *ibid.*
Boala 55
Bona Dea & quare dicta 59
Bupetii ludi 64
Bustuarii qui & unde dicti 77,95
Bustum quid & unde dict. *ibid.*

C

C Litera condemnationis nota 241
Cahallus mons 5
Calibaris hasta 69
Cælius mons 5
Cæsar Nobilissimus *ibid.*
Cæsares 167,168
Caius Caia mariti & uxor dicti 70
Calantica 152
Calata Comitia 130,219
Calcei lunati 153
Calcei mullei *ibid.*
Calcei vincinati *ibid.*
Calculi Palamediaci 114
Calendæ 126
ad *Calendas* Græcas 154
Caligæ *ibid.*
Calumniam jurare, dejurare 240
Calumniari, Prævaricari, Tigervisari, quomodo differunt 234
Camphus Martius quare dictus Tiberinus 15
Campus Sceleratus 14
Candida toga 149
nomenclatio, assiduitas, benignitas, blanditia } in *Candidatis* requisita 145
Candidatus Principis 149
Candidatus Quæstor *ibid.*
Candidatus unde 144
Canis & Canicula, tactus in ludo tesserario 110
Canon, ut *Canon* Alexandrinus urbis Romæ, &c. Jure consultis quid? 222
Capita vel navim, ludi genus 117
Capite censi 141
Capite damnatus 164
de ejus *Capite* quærito 242
Capitis diminutio, maxima, media, minima 183
Capitolini { ludi, agones } 90
Capitolinus mons 4
Capitolium unde *ibid.*
Capnomantes 51
Caput contubernii 251
Caput Porcinum in bello quid, & quare dictum? 254
Carcer ab Ergastulo differt 191
Carceres in circo quid & unde? 68
à *Carceribus* ad metam 16
Carptor 120
Castoris templum 12
Catapulta quid & unde 199
καταστασις 104
καταστροφὴ *ibid.*
Catastrophe vitæ humanæ 173
καθαπερ ὁ πρωτος 201
Cavea quid 12
Caveæ quæ pares amphitheatrum *ibid.*
Causæ Capitales 164
Cedere de gradu 97
Celeres qui & unde 156
Celerum Tribunus *ibid.*
Censio hastaria 265
Censores, Consoria virga 161
Census quid significet 229
Contesimatio legionis 257
Centrones qui et unde dicti 190
Centum viri 164,207
Centuria quid 252
Centuria Prærogativa 137
Centurio 141

primus

primus *Centuri* 253
Centuriones 233,251
Cerata tabula 133
Cereales ludi 81
Cereri sacrificat Prov. 43
Ceres quomodo effingi solita? *ibid.*
Cerites primi municipes 264
Cerites tabulæ *ibid.*
Cervi, pars aggeris, quare dicti? 251
Cestus 89,153
Chius, quid in talorum ludo 109
Chloris Flora dicta 8
Chorus tam è viris, quam mulieribus constabat 104
Cibariæ leges 223
Cimiliarchium quid 13
Cinctura laxior 146
Cinctura strictior *ibid.*
Cinctus Gabinus *ibid.*
Cinctutus 250
Circenses ludi 86
Circumvenire quid signif. 210
Circus quare dicitur sallex 16
Circus maximus 15
Cispius collis 6
Cives originarii 31
Civilis dies quomodo dividitur 128
Civis reptitius 29
Civitate donatus 31
Clam an palam 234
Clarigatio quid 48
infra *Classem* 140
Classici scriptores 141
Classicum canere 152,149
Classicus 141
Clientes qui 26
Clodius accusat mœchos, Prov. 60
Caelum auspicium 49
Codex unde 134
Codex supplicium quale 293
Codex robustus, locus in carcere 192
Cœna unde dicta 117
Cœna adjicialis Pontificia 63
Cœna ulmea 121
Cœnæ caput *ibid.*
Cognoscere, & pronunciare quomodo differunt 18
Cohors 251
Cohors prætoria 179
Coire quid signif. 210
Collatis signis pugnare 249
Colligii Magister 847
Colligatis vasis 249
Collina 25
Collis { Salutaris, Martialis, Latiaris } 5
Collis { Cispius, Oppius, Semptimius } 5
Collis hortulorum 7
Collumbar 194
Colonia Romana 261
Coloniæ deductio 267
Coloniæ Latinæ 262
Coloniæ Italiæ *ibid.*
Comessatio 117
Comitia & Comitium, quomodo differunt 11
Comitia calata 130,128
Comitia Centuriata 131,141
Comitia Pontificia 131
Comitia Ædilitia *ibid.*
Comitia Tributa 131,143
Comitialis dies 130
Comitialis homo *ibid.*
Comitialis Morbus 273
Comitium quid & unde 10
Comœdiæ unde, & ejus partes 102
Comœdiæ & Tragœdiæ differentiæ quædam *ibid.*
Comperendinari quid propie 239,246
Compitales ludi 93
Conceptivæ feriæ 219
Conclamare vasa 249
Conclamatum est 74
Concubium 128
Conditione tua non utar 72
Confarreatio 69
Conferre signa 249
Congiarium 144
Conscripti patres quomodo primum dicti *ibid.*
Consuales ludi 86

Consul 159
Consul major prior 160
Consularis vir 195
Consules Honorarii, ordinarii *ib.*
Consules non Honorarii, & suffecti 161
Consul olim Neptunus dictus 86
Contendere ex provocatione, *contendere* Sacramento 245
Conticinium 128
Contubernium, *contubernii* Caput 200
Convivarum quantus numerus 119
Convivia Romanorum quam varia 117
Κῶς & πῶς χίεν 110
Cornix fœlix auspicium in sponsalibus 69
Cornu dextrum vel sinistrum aciei 254
Cornua in libris quid 135, 136
Corona Castrensis, Vallaris 270, 276
Corona Civica, Quercea *ib.*
Corona Muralis *ib.*
Corona Navalis, Rostrata *ib.*
Corona obsidionalis, Graminea 269
Corona Ovalis 270
Corona Triumphalis, aurea 269
Coronæ, dona militaria 171
Coronarum usus in conviviis 120
Sub *Corona* quid 261
Coronis quid 135
Corybantes unde 61
Corybantia æra *ib.*
Cothurnus 106
Cous 111
Crepusculum 117
Creta Asiatica 263
Cretata ambitio 149
Cretula usus in literis signandis 134
Cribrum Carnificinum 190
Crux 188
Cultus 194
Cultuarii 67
Inter *Cuneos* residere 18
Cuneus in theatris quid *ib.*
Cuneus militum quid, & cur dictus 254
Cuniculi 260
Cuniculi oppugnare *ib.*
Curia per se quid signif. 5
Curia per se idem aliquando quod domus Curialis 46
Curia { Hostilia, Pompeia, Julia } 6
Curiæ olim apud Rom. quot. 45
Curiales Flamines *ib.*
Curialis domus 46
Curio Maximus *ib.*
Curiones Flamines dicti 53
Curiones sexaginta 45
Curionia *ib.*
Curulis sella 160
Custodes qui 232
Custodia lignea 192
Cybellæ vel *Cybele* 60
Cybelleius circulator 61

D

Damnari in metallum, & *Damnari* in opus metalli 254
Damnatio ad bestias 199
Damnatio in gladium 198
Damnatio in ludum 197
Damnatus voti 94
Dapes Saliares 56
Datatim ludere 206
Datores in pilæ lusu 115
Dea bona 59
Dea viriplaca 72
Debitores quomodo tractari soliti 32
Decanus quis 151
Decem-viri 58, 169
Decem-viri Slitibus judicandis 205
Decimatio legionis 267
Decretoria tela 176
Decumæ, *Decumanus* 218, 263
Decumanus idem quod maximus, & quare 256
Decuna 230
Decuriæ 123, 206, 251, 252
Decurio 208
Decurio quot significet 261
Dejectio è saxo 297
Delubrum quid & unde 20
Deorum mater 60
Depontani 15, 131

Deputatio 185
Desultorium ingenium 15
Desultorius equus *ibid.*
Deuna 230
Devorat sacra haud immolata 68
Devovere diis inferis, quid 26
Dialis Flamen 52
Dianæ mons 6
Dicam scribere 231
Dictator 170
Die noni pro die nono 94
Diem alicui dicere 240
Dies & atri 128
Dies bissextus 126
Dies civilis, quomodo dividitur 128
Dies comitiales 130
Dies fasti, ex parte fasti, & nefasti *ibid.*
Dies festi, feriati profesti, Interciſi 108
Dies justi 32
Dies perendinus 228
Dies tertius *ibid.*
Dies postridiani, & Ægyptiaci 128
Diffarreatio 70
Diffindere idem 237
Digito provocare 101
Digitum attollere, deditionis signum 131
item emptionis 221
Dii & divi quomodo differunt 132
Dii animales qui 35
Dii communes 36
Dii consentes majorum gentium nobiles } 35
Dii patrii, *dii* tutelares 36
Dii iratis aliquid facere *ibid.*
Diluculum 128
Diludia in fabulis 439
Dimachæri 101
Dimicare ad certum 97
Dimidiatus aper omnia habet eadem quæ totus, Prov. 224
Diminutio Capitis maxima, media, minima 113
Diribitores 132
Discincti qui 250
Discumbendi ratio 118
Discus 67 115
Divisores 145
Divortium 72
Do, dico, addico 130 166
Dodrans 229
Domus Curialis 81
Dona 267 &c.
Donatica hasta 171
Dubia cœna 121
Ducere uxorem 72
Duella 229
Duumviri sacris faciundis 57

E

Eculeus 195
Edictum unde 165
Edictum peculiare & novum *ibid.*
Edictum peremptorium 240
Edictum perpetuum 165
Effari templa quid 20
Elephantini libri qui 13
Eleusina Ceres dicta 42
Elogium quid 189
Eloquentiæ candidatus 149
Emancipati qui 227
Emancipati desierunt esse agnari *ibid.*
Emancipatio 229 238
Emisit arietem, Prov. 56
Empti de lapide, de furca 197
Epit asis quid 104
Epulonum Triumviri 63
Equestriæ 17
Equestris ordo *ibid.*
Equi πομπικοὶ & δρομικοὶ 87
Equitum distributio 251
Equitum Magister *ibid.*
Equitum præfecti 252
Equus militaris 28
Equus publicus *ibid.*
Equus Solis 87
Ergastulum unde dictum 191 200
Ἕρκος ὀδόντων quid Gellio signif. 256
Ἑκατοὶ qui dicti 199
Esquilina tribus 25
Esquilinus mons 6
Essedarii qui 100
apud Homerum
Κυνήμιδες Ἀχαιοὶ 46 100

Euripidis jactus in tesseris 113
Exaggero unde 255
Exequiarum ritus 75
Exercitoria tela 96
Extispices qui & unde dicti 50
Extramuraneus cur Mars appellatur 72
Extremi agminis ductores 251

F

Fabiani Luperci 42
Fabianus fornix 258
Fabulæ palliatæ & togatæ 96
Factiones albæ & russeæ 88
Factores in pilæ lusu 115
Fagutalis Jupiter *ibid.*
Fagutalis mons 7
Familiæ appellatione quid aliquoties significatur 101
Familiaris pars in victimis 51
Fana sistere 20
Fanum quid & unde dictum 19
Farracia quid 70
Fartor 144
Fasces pro magistratu 157
Fasces submittere *ibid.*
Fasti dies, & ex parte *fasti*, 130
Fatua } Bona Dea appellata 59
Fauna }
Fax prima 128
Februarius unde dictus 40
Feretrius cur Jupiter dictus 268
Feriæ Imperativæ, & Indictiv. 129
Feriæ Latinæ *ibid.*
Feriæ privatæ, publicæ, anniversariæ, stativæ, & conceptivæ *ibid.*
Feriati dies *ibid.*
Ferre legem 139
Festi dies 129
Fidei flamines 57
Fidiculæ 296
Fidus idem olim quod fœdus 57
Figere legem & refigere 139
Figere tabulam *ibid.*
Fiscus ab Ærario differt 278
Flagella Triumviralia 203
Flagra taxillata *ibid.*
Flama } 52
Flamen dialis }
Martis } *ibid.*
Quirinalis }
Flamines quot & unde dicti 52
Flamines Curiales 53
Flamines majores, & minores *ib.*
Flaminiæ ædes *ib.*
Flaminicæ *ib.*
Flaminica & *Flaminia* *ib.*
Flaminio abire *ib.*
Flamineus 69
Flexumines 156
Flora dea 7
Florales ludi 84
Florales tubæ *ibid.*
Focus quid & unde dictus 23
pro aris & *Focis* certare, *ibid.*
Fœciales unde dicti 56
Fœdus quid 67
Folium Sybellæ, vid. *Cybelle* folium.
Follis pila qualis 115
Forfex, seu *Forceps* militum 202
Fori in circo maximo quid 15
Fornices 267
Forniæ Fabianus 268
Forum quot modis sumitur 8
Forum agere *ibid.*
Forum indicere *ibid.*
Forum Augusti 9
Forum Julium *ibid.*
Forum Palladium *ibid.*
Forum Romanum, & *Forum* vetus *ib.*
Forum Salustii *ibid.*
Forum Trojani *ibid.*
Forum transitorium, & cur sic dictum *ibid.*
Fratres arvales, qui, quot & unde dict. 45
Fraudatio stipendii 265
Fregit subsellia 90
Frumentariæ leges 222
Frumentum æstimatum }
decumanum } 223
emptum }
imperatum }
Funalis unde 74
Funales & *Fundamentum*, cœnæ 121

Funus 27
de *Furca* redempti 197
Furcæ ſupplicium 186, 190
Furcifer unde 180
Fuſte cædi 266
Fuſtuarium meretur *ibid.*

G

Galli Cybelles ſacerdotes 60
Galli gladiatores quales 110
Gallica quid 123
Gallicinium 128
Gemoniæ ſcalæ ubi 107
Genialis quid ſignif. 38
Genialis arbor quæ 37
Genialis lectus 72
Genio indulgere 38
Genium defraudare *ibid.*
Genius bonus & malus 36
Genius loci 38
Geno idem quod gigno 37
Gladiatura 96
Gladius in judiciis quid 165
Globus militum 254
Gradivus à grádiendo 54
Gradus in gladiatura quid 98
Græca ſacra, *Græca* ſacerdos 43
Graminea ara, haſta, corona, vid. *Ara, Haſta, Corona*
Grande ſophos quid 91
Gymnici 89
Γυναικία 59

H

Hæredes ex toto aſſe
Hæredes in ima cera
Hæredes legatarii
Hæredes primæ ceræ 133
Hæredes ſecundi
Hæredes ex deunce
ex quadrante
ex ſemuncia
ſextula aſperſus 230
Hæres fiduciarius, & imaginarius 228
Hæres in totum aſſem inſtitutus 229
quomodo differt ab *Hærede* ex toto aſſe 230
Harpaſtum 115
Haſta Cœlibaris 69
Haſta Centumviralis 164, 206
Haſta pura
donatica
graminea 269
Haſta pura donati 265
Haſtæ judices 157
Haſtæ ſubjici 220
Haſtaria cenſio 265
Haſtati qui 233, 253
Helepolis, genus machinæ deſcribitur 259
Hemones aliquando homines dicti 35
Herbam dare 269
Hercules, jactus in teſſeris 110
Hiſtrio unde dictus 101
Homini mortuo oſſa ne legito 77
Homo Comitialis 133
Homo incerti laris 39
Homo omnium ſcenarum 17
Homo plurimarum palmarum 98
Homo ſacer 175
Hoplomachorum armatura 100
Horrea Sempronia 222
Horti Saluſtiani 9
Hoſtia unde dicta 65
Hoſtiare victimam *ib.*
Hoſtilia Curia 6
Hoſtilis pars in victimis 51
Hymen Hymenæe 72

I

I. D. T. S. P. quid 240
Facere in ſenatu 159
Jactus pronus, plenus, ſupinus, inanis, 113
Janiculus mons 8
Janualii 6
Idus 138
Jentaculum unde dictum 117
Igni & aquæ interdicere 184
Ignobiles qui 29
Ignominioſa dimiſſio 265
Ignota capita 28
Ilicet quid ſignif. 78
Illotis manibus accedere ad rem 66
Illotis pedibus *ibid.*
Imago idem quod nobilitas 29
Immolatio 66

Imperativæ feriæ 129
Imperator 252
Imperator quot signif. 167, 152
Imperatoris nomen donum militare 267
Esse cum *Imperio* quid 218
Imperativa auguria 48
Inauspicato 46
Incensimarium 13
Incensus 229
Incerare genua deorum 95
Incestus unde 152
Indicare forum quid 8
Indicta causa damnari 210
Indigites 34
Induciæ 264
Inferiæ 77
Ingenui qui 31
Inire viam 244
Injustis vindiciis & sacramentis alienos fundos petere 246
Inscripta ergastula 235
Inscripti servi 202
Intendere actionem, vel litem 240
Intercalaris dies 125
Intercedere 139
Intercisi dies 129
Interrex 170
Intervallum quid 255
Intonuit lævum 49
Io Triumphe 286
Ἱπποκρατία, ludi genus 77
Italum robur 192
Judicatum solvere 239
Judices hastæ 164
Judices lecti sortitione, editione, edititii, alterni 238
Judices questionum 206
Judices selecti 216
Judicium dare 244
Judicium decuriæ 232
Judicum rejectio 241
Judicum sortitio, sub-sortitio. *ib.*
sub *Jugum* quid 161
Junones 37
Junonii 56
Junus sive *Juvus* aliquando nomen Panis 51
Jupiter Feretrius quare dictus 275
Jurare calumniam, sive in litem 245
Jurare Jovem lapidem, vel per Jovem lapidem 268
Jure vocatæ centuriæ 143
Jus & lex quomodo differunt 204
Jus honorarium 165
Jus Papyrianum 205
Jus pro loco in quo Prætor Judex sedebat 143
in *Jus* vocare 204
in *Jus* vocatio 240
Justa 76
Juvenales ludi. 108

K

A Litera Græcis ampliationis signum 242
Lacerna quid 152
Lacernatus oppositus togato *ibid.*
Læna qualis vestis 47
Lævum in rebus sacris quid 49
Laminæ 196
Lanii cum tintinnabulis 185
Lanistæ qui 101
Lanx 67
Lapis manalis 54
Lapis pro mille pass. 168
Laquearii quibus armis pugnare soliti 101
Lare sub parvo 39
Lares *ibid.*
Lari sacrificat *ibid.*
Largitio 145
Lata fuga 244
Latiaris collis 5
Laticlavia, *Laticlavus* 151
Latinæ feriæ 129
Latini nominis socii 211
Latinus quis *ibid.*
Latro & *Latrunculus*, unde dicti 114
Laudare defunctum pro rostris 73
Lectus genialis & adversus 72
Legatio mandata, votiva, libera 215
Legatus 252
Legatus quot significat 185
Legio quid, & unde 250

Legio Alaudarum 134
Legio juſta 251
Legio quadrata 250
Legionis decimatio, viceſimatio, centeſimatio 267
Legionum diviſio 5
Lemniſcata palma 98
Lemniſcus quid *ibid.*
Leſſum 78
Lex & jus quomodo differunt 204
Lex Curiata, Centuriata 139
Legis promulgatio 137
Leges Agrariæ 221
de ambitu 236
Cibariæ 214
de Civitate & jure civium 210
ad Comitia ſpectantes 212
duodecim tabularum 169
Lex duodecim tabularum de vindiciis 243
Leges Frumentariæ 222
de Judicibus & judiciis 231
de Legibus 217
de Magiſtratibus 215
Majeſtate 236
Re Militari 226
Pecuniis repetundis 238
Provinciis 218
Religionem ſpectantibus 207
de Senatu & Senatoribus 214
Sumptuariæ 224
Tabellariæ 213
de Teſtamentis 228
de Tutelis 227
de Uſu-capione 230
Lex accuſatoria 231
Lex Acilia 239
Acilia Calpurnia 236
Ælia 212
Antia 234
Antodia 232
Ateria 182
Atinia 230
Aurelia 232
Cœbia 213
Caſſia *ibid.*
Cicilia Didia 217
Lex Cincia 233
Claudia 214
Clodia de Comitiis 113
de Cypro 210
de frument. 222
de interceſſ. 217
de Magiſtrat. 215
de Provinciis 220
ad religionem ſpect. 209
Cornelia Agraria 226
de judicibus 234
de Magiſtratibus 206
de Municipiis 211
de Provinciis 219
de Sicariis, Veneficio, & Parricidio 242
Sumptuaria 225
Lex Didia *ibid.*
Domitia 111
Lex Fabia 236
Fannia 224
Furia 229
Fuſia 212
Lex Gabinia Comitialis 213
militaris 226
Gellia Cornelia 212
Lex Hieranica 214
Hircia 216
Lex incerta de nexu 234
Judicaria Cæſaris 232
Julia de judiciis *ibid.*
de Majeſtate 236
de Provinciis 218
Junia de pecuniis repetundis 219
de peregrinis 211
Junia Lucinia de trinundino 217
Lex Lætoria 228
Licinia de Sodalitiis 237
Sumpturia 225
Licinia Æbutio 217
Lex Licinia Muria 212
Livia 231
Lex Mancipii 235
Manicia Comitialis 214
Militaris 226
Memnonia 234
Muneralis *ibid.*

Lex Orchia 224
Lex Papia 210
Papiria ad religionem ſpectans 213
ad comitia ſpect. *ibid.*
Plautia 232
Pompeia *ibid.*
Portia 210
Lex Quadrupli. 230
Lex Rhemnia 234
Roſcia 207
Rupilia 132
Lex Sempronia Agraria 221
de Civitate 210
de comitiis 214
Frumentaria 222
de Judiciis 231
de Provinciis 217
Servilia de Civitate 215
de Judiciis 225
Locialis 239
Sylvani & Carbonis 211
Lex Terentia Caſſia 223
Titia 218
Tullia de Ambitu 237
de Senat. 214
Lex Valeria 218
Varia 137
Varinia 219
Voconia 116
Libamina prima 67
Libatio 66
Libellos dejicere 221
Libera toga 148
Liberi alii ingenui; alii *Libertini* 32
Liberti 30
Libitini, *Libitinarii* 75
Libitinarius idem quod capularis *ibid.*
Libri unde 132
Libripens unde 235
Liſtres qui & unde 156
Linum incidere 134
Litare 67
Lite vel cauſa cadere 206
In *Litem jurare* 240
Litis conteſtatio, redemptio, aſtimatio, quomodo differunt 239
Literati 202
Lituus 47
Loculi 17
Luceres 25
Lucina Dea quæ 70
Lucus unde dictus 22
Ludorum Romanorum diviſio 80
Ludi honorarii 94
Ludi juvenales 108
Ludi plebeii 93
Ludi quinquennales 91
Ludi Romani, Magni, Conſuales, Circenſes 86
Ludi ſacri 80
Ludi ſeculares 91
Ludus Trojanus 105
Lugere differt ab elugere 79
Lupa aluit Romulum & Remum expoſitos 41
Lupercal ubi *ibid.*
Lupercalium origo & ceremoniæ *ibid.*
Luperci Fabiani 42
Luperci Quintiliani *ibid.*
Lupercorum licentia *ibid.*
Luſoria tela 96
Luſtrum 162
Luſtrum condere *ibid.*

M

Machinæ bellicæ 263
Machinis oppugnare 260
Mactare hoſtiam 67
Magiſter per ſe quid 185
Magiſter Collegii 47
Magiſter Equitum 171
populi *Magiſter* *ibid.*
Magiſtratu abire 144
Magiſtratum ambire, inire *ibid.*
Magiſtratus quis 155
Magiſtratus majores 136. 155
minores *ib.*
Magiſtratus patricii, plebeii *ibid.*
Magiſtratus Quinqueduanus 170
Magna mater 60
Mala manſio 192
Malleoli genus machinæ 260
Mancipatio 227, 235
Mancipatio fiduciaria *ibid.*

Mancipatus Mancipium ibid.
Mancipes 263
res *Mancipi* 224, 227
Mane 128
Manes, mali genii 37
Manibus illotis accedere ad rem 66
Manibus, pedibusque discedere in alicujus sententiam 158
Manipulares 233
Manipuli 251
Manipulus militum 254
ex jure *Manu* consertum te voco 244
Manum conferere, *Manus* consertio 243, 244
Manumissionis formula 31
Manus in ludo gladiatorio 113
Manus in ludo tesserario ibid.
Mars effingi quomodo solebat 54
Marte proprio 53
Marte vario pugnatum est ibid.
Martiales ludi 85
Martialis collis 5
Mater Deorum 66
Mavors 54
Megalenses ludi 80
Megalensis purpura 84
Megalesia 80
Mellaria amphora 59
Menses Romanorum quales 124
Merenda unde dicta; 117
Mereri sub hoc vel illo Duce 147
Meridiani qui 200
de *Meridie* 128
ad *Meridiem* ibid.
Meridies ibid.
Meta 16
Metallum 259
Μηχάνης 61
Miles emeritus 248
Militares mulctæ 265, &c.
Militaria dona 267, &c.
Militaris testudo 256
Milites per sacramentum conjurationem 248
evocationem seu evocati 249
Milites Pilani 254
Prætoriani 179
Subitarii 151
Mimi qui,& quare Planipedes dict. 103
Mimicæ fabulæ ibid.
Minervii 55
Minuritio 93
Missio 97
Mitia 252
Mitriaci 61
Mittere vel demittere Judices in consilium 241
Modiperator in conviviis 140
Molæ 66
Monas talorum jactus 110
Monitor 137
Mons Aventinus, Dianæ mons, Murcius, Remonius, sacer 5
Mons Cœlius, Querculanus 5
Mons Capitolinus, Tarpeius, Saturni 4
Mons Esquilinus 5
Mons Palatinus 3
Mons Quirinalis, Agonalis, Caballus 5
Mons Vaticanus 8
Mons Viminalis, Figuralis 7
Montorius 8
Morbus Comitialis 138
Morbus Sonticus 237
Moribus deductio 244
Mulcta suprema, minima 182
Mulctæ militares 265, &c.
Mullei calceorum genus unde? 153
Munerarii qui? 95
Municipium quid & unde? 264
Municipium sine suffragio ibid.
cum suffragio ibid.
Munus pro gladiatura 95
Munus honorarium 166
Munus offendere 199
Murcia Venus dicta 6
Murcius mons ibid.
Murrhata, *Murrhina* potio 78
Muscæ in conviviis qui 120
Musculus, machinæ genus 256
Mutare vestem quid? 149
Mydas, jactus tesserarum 112
Myrmillenes 100

N

N. N. quid signif. 141
Nasum Charontis 77
Nefastos dies 130
Nervus 193
Nexi qui 32
Nexus 129, 234, 235
Nomen idem quod debitum 32
Nomina facere, liberare, exigere *ib.*
Nominis delatio 200
Nomenclatio, Nomenclator 145
Nonæ 126
Nongenti qui 132
Novi qui dicti 28
Nox intempesta ad mediam *Noctem* medea *Nocte* de media *Nocte* 128
Nucibus relictis 116
Numelli 194
Numeri in ludo tesserario 209
Numerus Stesichorius 221
Nummus pro sestertio 208
Nunciatio 138
Nuncium mittere, remittere 73
Nuncupare vota 94
Nuptiæ innuptæ 70
Nuptiæ sacramento ignis & aquæ *ib.*
Nuptialia dona 72
Nympharum ædes 163

O

Obnunciatio 138
Observatio de cælo *ibid.*
Orearum usus in bellis 100
Olympica certamina 89
Omen prærogativum 137
Onager machinæ genus, ejusque descriptio 258, 259
Opera & impensa periit 89
Operam & oleum perdidit *ib.*
Optima spolia 268
Opius collis 6
Ops 59
Optimates qui 30
Oracula Sybillina 58
Orbelæ, gladiatores quidam sic dicti 38
Orbis militum 254
Orcæ quis usus in ludo tesserario 112
Orchestra 17
Ostendere munus 199
Ovatio quid & unde 268
Ovem unum 183
Ovilia locus in campo Martio 14
Ovi cum mundo similitudo 86
Ab *Ovo* ad mala 121
Ovum in Cereali pompa quid 34

P

Pallio quid 264
Pæanas concinere 93
Παιανίζειν & μυρίζειν opponuntur *ibid.*
Paganica pila 115
Palmediaci calculi *ibid.*
Palatia unde dicta 3
Palatina tribus 202
Palatini ludi 94
Palatini alii 55
Palatinus mons 3
Palla 15
Palliatæ fabulæ 106
Palliati pro Græcis dicti 146
Pallium *ibid.*
Palma quare victoriæ signum 98
Palma lemniscata *ibid.*
Palmarum plurimarum homo *ibid.*
Palmata toga 150
Paludamentum *ibid.*
Pan Lyceus & ejus forma 41
Papyrus 132
Parma & Parmularius 100
Parricidi Quæstores 164
Parricidium quid 194, 242
Pater familias aliquando laniftam denotat 101
Pater Fiduciarius 227
Pater Patratus 56
Patibulum 190
Patres Conscripti quando primum dicti 204
Patricii qui 26
Patroni qui *ibid.*
Paucicape quid 201
Pecuarius 263
Pecunia ablata, capta, coacta, conciliatæ,

ta averſa 238
Pecuniæ repetundæ *ibid.*
Pecuniam occupare 239
Peditum diſtributio 251
Pelta quid 257
Pendere idem quod ſolvere 235
Penula 152
Penulam mihi ſcidit 120
Perduellio, *Perduellionis* judicium 213
Pergamena à quo inventa 133
Perones calceorum genus 154
Peſſimuntia 60
Peſſimuntius ſacerdos 209
Petaurum 114
Phaleræ donum militare 269
Pilla toga 153
Pignora cædere, condere, rapere, auferre 159
Pila paganica & trigonalis 115
Pilani Milites 254
ad *Pileum* vocare 31
Pileus in re gladiatora quid 99
Pileus ſignum libertatis 31
Pileus quomodo differt à palma, miſſione, & rude 99
Pilum quid 253, 254
Pinarii 44
Piſtrinum quid & unde 201
in *Piſtrinum* te dedam *ibid.*
Planipedes excalceati 103
Plumbeii qui 26
Plebiſcitum 139, 207
Plebea charta 134
Poculum boni genii 38
Poculum Charitatis *ibid.*
Pœna, quibus in hoſtes devictos utebantur Romani 261, &c.
Pœnæ, quibus in ſuos milites utebantur 167
Poetæ laureati 90
Pollicem convertere 101
Pollicem premere *ibid.*
Pollinctores 74
Pomærium quid 3
Pompa 82
Pompa Circenſis 83
Pontius pro toga 148
Pons ſublicius 62
de *Ponte* dejiciendus 15
Pontes per quos ſuffragia tulerunt apud Romanos qui *ibid.*
Pontifices unde dicti 62
Pontificia cœna *ibid.*
Popæ 63
Populares 30
Popularia 17
Porcus Trojanus 216
Porta à portando 2
Portitores qui 263
Portorium, *Portarium* unde *ibid.*
Poſtſignani 227
Poſtulatio, *Poſtulare* aliquem de hoc vel illo crimine 240
Potitii qui 43
Præcidaneæ hoſtiæ 65
Præcincti qui 250
in *Præcinctu* ſtare vel vivere *ibid.*
Præconi publico ſubjici 220
Prædes 262
Præfectura *ibid.*
Præfectus Ærarii 177
Præfectus annonæ 176
Præfectus Prætorio 177, 178
Præfectus Urbis 168, 169
Præficæ 75
Præludium 97
Prærogativa tribus vel centuria 137
Prætexta toga 150
Prætexta ætas 148
Prætextatæ 102
Prætextatus à togato differt 150
Prætor urbanus ſeu major 163
Prætor peregrinus ſeu minor *ibid.*
Prætores unde 157, 178
Prætores Cereales 163
Prætores fidei commiſſarii *ibid.*
Prætores Quæſitores 164, 206
Prætoria decemviralis *ibid.*
Prætorium quot ſignificet 178
Prævaricari, calumniari, & tergiverſari, quomodo differunt 234
Prandium 117
Praſinæ factiones 88
Pridie Calendas 127

Prima fax 246
Prima labamina 67
Primum pilum, *Primopilus*, *Primipilus*, *Primopilatus* 253
Princeps juventutis 106, 168
Princeps inter milites Romanos qui 233, 250
Principia quæ 253
ego ero post *Principia* *ibid.*
Principium in Comitiis 210
Privatæ feriæ 129
Proconsul 144
Profesti dies 129
Profiteri apud Prætorem 211
Proletarii 141
Prologus quid sit 104
Prologus ἀποθητικὸς Συστατικὸς ἀναφορικὸς 105
Pronaon 20
Promittere Vadimonium 240
Promulgatio legis 137
Pronunciare & cognoscere quomodo discrepant 10
Proœmium cæna 230
Proprætor 179
Proquæstor 180
Poscænium 17
Proscripti qui 184
Πρόστασις 104
Provincia quot significet & unde dicta 162
Provinciam cepisti duram *ibid.*
Provinciæ Consulares 180
Provincias Prætoriæ comparare soiriri *ibid.*
Provocatores sive probatores 100
Publicanus quis 165
Pugnatoria tela 97
Pulla toga 149
Pullarius 50
Pulpitum 17
Pulvinar idem aliquando quod templum 21
Punctum pro suffragio 132
omne tulit *Punctum* 122
Purpurea toga 150
Puteal Libonis 11
Puteus 192
Pyrgus Horatio quid 112
Pyrrhica Saltatio 108

Q

Quadrans quid 229
Quadrata legio 250
Quadruplatores 131
Quæsitores Parricidii 164
Questiones Perpetuæ *ibid.*
Quæstor unde 173
Quæstores ærarii *ibid.*
Quæstores provinciales 181
Quæstores rerum capitalium 174
Quæstores urbani 173
Querculanus mons 6
Quincunx quid 130
Quindecim-viri, sacris faciundis 58
Quinque-viri epulonum 63
Quinque-viri mensarii 177
Quintilis mensis 126
Quirinales Salii 55
Quirinalis Flamen 52
Quirinalis mons 5
Quirinus nomen Romuli 52

R

Ῥάβδυκος 156
Receptui canere 142
Recta cœna 221
Recuperatores 163
Reddere 67
Refigere legem 139
Regina sacrorum 54
Reguli pro talis 111
Relegatio 185
Rem ratam habere 239
Remonius mons 9
Renunciare quid significat? 73
Renunciatio Matrimonii *ibid.*
Reputundæ 228
Repotia 69
Repudium 72
Rex tuas tibi habeto *ibid.*
Retiarii qui & unde dicti? 99
Retiarii tunicati, & *Retiariorum* spongiæ *ibid.*
Reus voti 94

Rex Romanorum 168
Rex ſacrificulus, & Rex ſacrorum 53
Rhamnenſes qui? 25
Rhea 60
Rignarius mons 7
Robur locus in carcere 191
Robur Italum 192
Rogare legem 139
Rogus 76
Roma unde dicta? 3
Roma Urbs ſepti-collis *ibid.*
Romana urbs nomen incognitum 36
Romani civis deſcriptio 24
Romani ludi 86
Romano more pro ex animo 14
Romulum & Remum expoſitos lupa aluit 41
Roſtra ubi fuerint, & unde dicta 9, 11
pro *Roſtris* laudare defunctum 76
Rude donatus 128
Rudis apud Gladiatores quid 98

S

Sacer homo 193
Sacra per ſe quid ſignif. 70
Sacra Græca 43
Sacra haud immolata devorat 68
Sacramento & ſponſione provocare, rogare, quærere, ſtipulari 245
Sacramento contendere, reſtipulari *ib.*
Sacramentum in jure quid? *ib.*
Sacramentum militare 248
Sacrarium quid? 22
Sacri ludi qui? 80
Sacrificia, & ritus *Sacrificandi* 65
Sacrilegus unde? 77
Sacro-ſanctus quis dictus? 174
Seculum quantum temporis 92
Sagum quid? 147
ad *Saga* ire 153
Saga togæ cedant, idem, quod cedant arma togæ 147
Saliares dapes 56
Salii quot & unde dicti 55
Salii Palatini, Collini, Agonales, Quirinales *ibid.*
Salii quales pileos geſſent 56
Saltatio Pyrrhica 108
Salva res eſt, ſaltat ſenex 85
Saluſtini horti 9
Salutaris collis 5
Salutaris litera 241
Samiis nemo literatior 202
Samnites 100
Satisdare judicatum ſolvi 245
Satisdare rem ratam habere *ib.*
Satisdatio quid *ib.*
Saturni ædes cur ærarium populi 13
Saturni mons 4
Satyra quale genus carminis 103
Satyra *ibid.*
Scalæ Gemoniæ 197
Scena in fabulis quid 17, 104
Scena in theatro quid 17
Scena Tragica, Comica, Satyrica 186
Scena verſatilis vel ductilis 17
omnium *Scenarum* homo 105
Σκήνη unde dicta 16
Scenici ludi 81, 101
Scorpio, machinæ genus 258, 259
Scorpiones flagella qualia 203
Scriba 164
Scriptura, vectigalis genus cur dicta 263
Scripturarii agri *ibid.*
Scrobiculus 22
Seceſpita 67
Sectatores 236
Sectores 221
Secundum illum litem do 197
Secundum pilum, ſecundi pilus, &c. 254
Secutores gladiatores quales 99
Sella Curulis 160
Eburnea *ibid.*
Semidei 34
Semiſſis 213, 229
Semones quaſi Semi-homines 35
Semuncia 229
Senaculum 157
Senator *ibid.*
Senatores minorum gentium 27
Senatores Pedarii 158

in

in *Senatu* ſtare 159
ad *Senatum* referre 158
Senatus 157
Senatus Princeps 256
Senatus-conſultum 157
Senatus-conſultum de ambitu 237
Senio in talis 109
in *Sententiam* alicujus ire 158
Septa, locus in campo Martio 112
Septem convivium, novem convitium faciunt 119
Septemviri Epulonum 63
Septicollis urbs 3
Septimius collis 8
Septunx 229
Sepulchrum 78
Sepultura inſepulta *ibid.*
Sequeſtres 145
Servi adicti 32
Servorum duo genera *ibid.*
Seſtertius 208
Sexagenarii de ponte dejiciendi 133
Sextans 229
Sextilis menſis 126
Sextricium 189
Sextulæ 229
Sibylla unde dicta 58
Sibyllæ quot 63
Sibyllæ folium 58
Sibyllæ folia colligere *ibid.*
Sibyllina oracula *ibid.*
Sica & *Sicarius* 100
Sigma quid, & quomodo olim figur. 108
Signa conferre & calatis *ſignis* pugnare 249
Signare vota 49
Signatores 68
Silatum 117
Silicernium quid 78
Similis ara 94
Siniſtrum in rebus ſacris *ibid.*
Siſtere fana 21
Siſto Jure conſultis quid 241
Siticines 75
Σκαφεῖα inſtrumenta quibus Veſtales ignem incendebant 64
Socii, *ſocii* Latini nominis 264
Socius ſenatus, populiq; Rom. *ibid.*
Sodalitia, Sodales 238
Solea 128
Solis occaſus 128
Sophocleo digna cothurno 206
Sordidatus unde 129
Sortibus æquatis 137
Sortitio ſubſortitio Judicum 250
Spectio 138
Sphinx in Pronao quid ſignif. 20
Spoliarium 193
Sponſalia 68
Sponſione & ſacramento provocare, &c. Vid. *Sacramentum*, &c.
Sponſiones, depoſita pignora 88
Spartula 121
Stativæ feriæ 129
Status in gladiatura quid 97
Steſichorus jactus 111
Stimulo fodere 190
Stimulorum ſupplicium 186
Stipendium, *ſtipendiarii* 262
Stipendio conficiſſe 248
Stipendii fraudatio 265
Sipes noxiales 196
Stipulari, reſtipulari 245
Stola quid & unde 146
Stuprum 153
Stylus quot ſignificet 135
Stylum invertere 134
Subbaſilicani apud Plautum qui 10
Sublicius pons 62
Subſcriptores 231
Subſellia 10
Subſignani 204
Suburrania 25
Succidaneæ hoſtiæ 65
Succidaneum tergum *ibid.*
Suffragia explere 144
Suffragia legitima conficere *ibid.*
Suffragiorum puncta non tulit ſeptem 132
Sumptuariæ leges 214
Suovetaurilia, *Solitaurilia* 162
Superſtites pro teſtibus 143
Supplicatio donum militare 267
Supplicationes decernere *ibid.*

Supplica Romanorum 182
Supplicium more majorum 187
Supplicium ſervile 188
Suram dare 116
Suſpenſa bona 221
Sylla, perpetuus Dictator 217
Syntheſis 61

T

T. Litera Senatus Conſultis ſubſcripta quid 175
T. Græcis litera abſolutionis, & quare 242
Tabellæ 133
Tabellarius *ibid.*
Tabernariæ 102
Tabulæ accepti & expenſi 133
Tabulæ Ceratæ *ibid.*
Tabula Publicæ, novæ, Auctionariæ *ibid.*
Tabulam figere 139
Tabularium quid & unde 13
Tæda quid 71
Talaſſio quid ſignif. *ibid.*
Talio 203
Talus 209
Tarentini ludi 92
Tarpeia lex de mulctis 183
Tarpeia rupes 4
è *Tarpeia* rupe dejectio 197
Tarpeius mons 4
Tarſenſes qui 25
Taurilia 94, 63
Tela luſoria exercitoria 96
Templum 19
Templum Auguribus certa cœli regio 48
Tergiductores 246
Tergiverſaria 135
Teſſera quid 108
Teſſera militaris, frumentaria, nummaria, hoſpitalis *ibid.*
Teſſeram hoſpitii conſregit 110
Teſſerarius ludus 108
Teſtamentum per æs & libram 228
Teſtamentum calatis comitiis 131, 228
Teſtamentum per emancipationem familiæ *ibid.*
Teſtamentum per nexum *ibid.*
Teſtamentum in procinctu *ibid.*
Teſtato quid ſignificat 256
Teſtudo militaris *ibid.*
Θ damnationis ſymbolum apud Græcos 242
Theatrum quid & unde 16
Thenſæ 82
Thraces gladiatorum genus 99
Tintinnabulorum uſus in ſuppliciis 185
Titii 232
Titulus in ſuppliciis 189
Toga unde dicta 146
Toga alba, candida, pura 148
Toga picta, purpurea, palmata 150
Toga prætexta, purpurea *ibid.*
Toga pura quid 247
Toga triumphalis 150
Togam virilem ſumere 148
Togata mulier pro impudica 146
Togata fabulæ 106
Togati pro Romanis dicti 146
Tormentum quid & unde 259
Torquis, donum militare 268
Trabea 150, 248
Tarbea Auguralis, Regia, Conſecrata 151
Tragœdiæ & Comœdiæ differentiæ quædam 102
Tres ſex, aut tres teſſeræ 112
Tria nomina 32
Triarii 233 253
ad *Triarios* ventum eſt *ibid.*
Tribuni ærarii 174
Tribuni militum 171, 251
Tribuni plebis 174
Tribuni Rutili, Ruſuli 172
Tribuni ſuffecti, Comitiati *ibid.*
Tribunus Celerum 165
Tribus γενικαὶ & τοπικαὶ 24
Tribus inre vocata 137
Tribus Jocales quot. 25, 143
Tribus prærogativa 136
Tribus Ruſticæ 144
Tribus Urbanæ *ibid.*

Tributarii 262
Tributum quid, & quotuplex 164
Triclinium unde dictum 118
Tridens inter retiarios quid 100
Triens quid 229
Trigonalia pila 115
Trinundinum 117
Tripudium 47, 49
Tripudium Solistimum 50
Triumphales arcus 268
Triumphalis vestis *ibid.*
Triumphus unde dictus *ibid.*
Triumphus ab Ovatione quomodo differt 267, 268
Triumphus major, minor *ibid.*
Triumphus majorem proprie significat *ibid.*
Trium-viri agro dividendo 222
Trium-viri Capitales 177, 192
Trium-viri Coloniæ deducendæ 177
Trium-viri conquirendi juvenes idoneos ad arma ferenda *ibid.*
Trium-viri Epulonum 63
Trium-viri Mensarii, Monitales, nocturni 176
Trium-viri Reip. constituendæ 115
Trium-viri Valetudinis 177
Troja 108
Trojanus ludus 98
Trophæum unde 268
Trossuli 156
Tullianum 192
Tunica pallio propior 151
Tunica laticlivia, Angusticlavia, Recta 227
Tunica supplicii genus 191
Turma 251
Turres ambulatoriæ 256
Tutela 226
Tutela Testamentaria, Legitima, Dativa, Fiduciaria, Honoraria 227
Tutores honorarii *ibid.*
Tyro, *Tyrocinium* 250

V

VR. tabulis inscript. quid sign. 131
Vacationes 209
Vadari reum 240
Vadimonium promittere *ibid.*
Valla, *Valli* 157
Vallus vitem decepit, Prov. 256
Vbi tu Caius, ibi ego Caia 73
Vectigal 263
Velitatim agere 259
Velites 252
Venditio per æs & libram 235
aliud est *Ventilare*, aliud pugnare 97
Venus in tesseris quid 110
Versis armis pugnare 97
Vespæ & vespillones qui, & unde dicti 76
Vesper 128
Vestales Virgines 63
Vestes Romanæ 146
Veteranus 250
Vexillationes unde & quare 254
Vexillum unde *ibid.*
Vexillum Roseum 248
Vexillum Cæruleum *ibid.*
Vicesimarium aurum 12
Vicesimatio legionis 267
Victima unde dicta? 65
Victimam hostiare *ibid.*
Victimarii 67
Vigiliæ 127
Viminalis mons 7
Vimineus Jupiter *ibid.*
Vindicatio quotuplex 244
Vindicias sumunto 243
Vindicta liberare 31
Vinea quid 256
Virgis cædi 203, 266
Virgula censoria 162
Viri placa Dea 72
Visceratio 78
Vitis centurionum 142
Ulmea cœna 128
Ultimum supplicium 113
Umbilicus in libris quid 135

Umbræ in conviviis qui 120
Unica quid 229
Ungulæ 196
Unum pro omnibus 240, 241
Volumen unde dictum 135
Vota nuncupare 94
Vota signare *ibid.*
Voti reus 95
Voti vel voto damnatus *ibid.*
Votivi ludi 94
Vovere ludos vel templa *ibid.*
Υπαπία quid 97
Urna 77

Ut tu Dominus, ita ego Domina, 70
Vulturii pro talis *ibid.*
Uxor unde 71
Uxor { usu, confarreatione, coemptione } 70

X

Ξυλοκυπία 265

Z

Z*Ona* quid 152
Zonam perdere *ibid.*
Solvere *ibid.*

FINIS.